

Fiscal Year 2004 Security Assistance Legislation and Funding Allocations

By

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Introduction

Each year, the *DISAM Journal* publishes a summary and analysis of the legislation that impacts U.S. security assistance. In this issue, we present the twentieth in a series of annual studies of the major pieces of legislation with references to security assistance and related programs. This report is intended to alert all security assistance community members to the collective changes in legislation that will influence program planning and implementation for the coming year. As has been done in the past, the report is in outline form, with key topics highlighted to facilitate locating specific statutory references. This report will also include tables showing the levels of funding for the affected countries and programs. This is possible because of the timely receipt of the security assistance funding portions of the Department of State report for the allocation of foreign operations funding submitted to Congress on 5 March 2004 in accordance with Section 653(a), FAA.

Because of the continuing political and military efforts required for the global war on terrorism (GWOT), the war operations in Iraq, peacekeeping and reconstruction efforts in both Iraq and Afghanistan, and the continued economic recovery in the U.S.; FY2004 marks the third year in a row that the required annual foreign operations appropriations legislative actions by the Congress and subsequent funding allocations by the Administration were not completed until the second quarter of the affected fiscal year. FY2004 also is the third year in a row that an emergency supplemental appropriation affecting security assistance or security assistance-related programs was required. Of note, the emergency supplemental appropriation for FY2004 was legislated and enacted (6 November 2003) two months before the annual foreign operations appropriation (23 January 2004). Because of budgetary considerations, FY2004 also marks the fourth of the last five years that a last minute across-the-board rescission (reduction) of appropriated funding was applied, with FY2002 being the exception.

The FY2004 security assistance program also experienced for the first time since FY2000 a gap in funding authorization legislation. The *Security Assistance Act of 2000*, P.L. 106-280, 6 October 2000, provided authorizations for FY2001 and FY2002 and the *Security Assistance Act of 2002*, Division B, P.L. 107-228, 30 September 2002, provided funding authorizations for FY2003. HR1950 was introduced and passed by the House to

provide for, inter alia, security assistance funding authorizations for FY2004 and was forwarded to the Senate on 17 July 2003. S1161 was introduced and reported out of the Senate Foreign Relations Committee (SFRC) on 29 May 2003 to provide for security assistance along with other foreign assistance funding authorizations for FY2004. The Senate took no further action on either HR1950 or S1161.

The *Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2004*, was passed and enacted as Division D of the *Consolidated Appropriations Act, 2004*, P.L. 108-199, 23 January 2004. Division H, Section 168 (b), of the same P.L. 108-199 directed an across-the-board rescission of 0.59 percent to all FY2004 appropriations, but exempting the earlier enacted two DoD FY2004 appropriations, P.L. 108-87 and P.L. 108-132, and the FY2004 emergency supplemental appropriations, P.L. 108-106.

Table One displays the original security assistance funding request by the Administration. For comparison, it also shows the House and Senate proposals with the initial appropriation for each of the four programs as provided by *Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2004*, Division D, P.L. 108-199, 23 January 2004. Later tables will display how each program and country programs were affected by the later rescission of 0.59 percent from Division H, P.L. 108-199.

Table One

**Fiscal Year 2004 Security Assistance Funding
(in millions)**

<u>Program</u>	<u>Budget Request</u>	<u>House HR2800 Proposal</u>	<u>Senate S1426 Proposal</u>	<u>Initial P.L. 108-199 Appropriation</u>
FMFP	\$4,414.000	\$4,314.000	\$4,384.000	\$4,294.000
IMET	91.700	91.100	91.700	91.700
ESF	2,535.000	2,260.100	2,415.000	2,151.000
PKO	<u>94.000</u>	<u>85.000</u>	<u>84.900</u>	<u>74.900</u>
Total	\$7,134.700	\$6,750.200	\$6,975.600	\$6,611.600

Note: Does not include the directed 0.59 percent rescission of \$39,009,000.

The above Table One does not reflect the additional security assistance funding that was provided for FY2004 by the earlier enacted *Emergency Supplemental Appropriations Act for Defense and the Reconstruction of Iraq and Afghanistan, 2004*, P.L. 108-106, 6 November, 2003. This included \$287,000,000 for FMFP, \$972,000,000 for ESF, and \$50,000,000 for PKO. One more significant item to be noted for FY2004 security

assistance was the enacted \$550,000,000 non-appropriated FMFP loan authority for the Czech Republic within Section 133 of the first continuing resolution (CR) for FY2004, *Continuing Appropriations for the Fiscal Year 2004, and for Other Purposes*, P.L. 108-84, 30 September 2003, requested by the Administration for the Czech purchase of used F-16s from the U.S. or support for U.S.-origin aircraft purchased from another country. As a related note, the FY2004 appropriations process required the enactment of four continuing resolutions with the last one to expire on 31 January 2004 to keep the federal government functioning.

The following six pieces of legislation along with one treaty ratification are to be further analyzed in this article as they relate to the U.S. security assistance program.

- *Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2004*, Division D, P.L. 108-199, 22 January 2004.
- *Emergency Supplemental Appropriations Act for Defense and the Reconstruction of Iraq and Afghanistan, 2004*, P.L. 108-106, 6 November, 2003.
- *Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2004*, Division B, P.L. 108-199, 23 January 2004.
- *Protocols to North Atlantic Treaty of 1949 on Accession of Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia*, Treaty Number 108-4, 8 May 2003.
- *Syria Accountability and Lebanese Sovereignty Restoration Act of 2003*, P.L. 108-175, 12 December 2003.
- *Department of Defense Appropriations Act, 2004*, P.L. 108-87, 30 September 2003.
- *National Defense Authorization Act, Fiscal Year 2004*, P.L. 108-136, 24 November 2003.

Reference Sources

The following abbreviated titles will assist in identifying principal sources of information used in this article. The laws and associated congressional reports can be viewed at the Library of Congress “Thomas” webpage located at <http://thomas.loc.gov>.

- FAA: *Foreign Assistance Act of 1961*, as amended, Public Law (P.L.) 87-195, 4 September 1961.
- P.L. 87-510: *Migration and Refugee Act of 1962*, P.L. 87-510, 28 June 1962.
- AECA: *Arms Export Control Act*, as amended, P.L. 94-329, 30 June 1976.

- P.L. 96-8: *Taiwan Relations Act*, P.L. 96-8, 10 April 1979.
- P.L. 96-533: *International Security and Development Cooperation Act of 1980*, P.L. 96-533, 16 December 1980.
- P.L. 96-533: *Peace Corps Act*, Title VI, P.L. 96-533, 16 December 1980.
- P.L. 99-239: *Compact of Free Association*, P.L. 99-239, 14 January 1986.
- P.L. 99-415: *Anglo-Irish Agreement Support Act of 1986*, P.L. 99-415, 19 September 1986.
- P.L. 101-179: *Support for East European Democracy (SEED) Act of 1989*, P.L. 101-179, 28 September 1989.
- P.L. 101-513: *Iraq Sanction Act of 1990*, P.L. 101-513, 5 November 1990.
- P.L. 102-511: *Freedom for Russia and Emerging Eurasian Democracies and Open Markets (FREEDOM) Support Act (FSA) of 1992*, P.L. 102-511, 24 October 1992.
- P.L. 104-106: *National Defense Authorization Act, Fiscal Year 1996*, P.L. 104-106, 10 February 1996.
- P.L. 105-85: *National Defense Authorization Act, fiscal Year 1998*, P.L. 105-85, 18 November 1997.
- P.L. 105-261: *Strom Thurmond National Defense Authorization Act, Fiscal Year 1999*, P.L. 105-261, 17 October 1998.
- P.L. 107-38: *2001 Emergency Supplemental Appropriations Act for Recovery from and Response to Terrorist Attacks on the United States*, P.L. 107-38, 18 September 2001.
- P.L. 107-57: *An Act to Authorize the President to Exercise Waivers for Foreign Assistance Restrictions with Respect to Pakistan through September 30, 2003, and for Other Purposes*, P.L. 107-57, 27 October 2001.
- P.L. 107-115: *Kenneth M. Ludden Foreign Operations, Export Financing, and Related Programs Appropriations Act, Fiscal Year 2002*, P.L. 107-115, 10 January 2002.
- P.L. 107-117: *Department of Defense and Emergency Supplemental Appropriations for Recovery from and Response to Terrorist Attacks on the United States Act, 2002*, P.L. 107-117, 10 January 2002.

- P.L. 107-187: *Gerald B.H. Solomon Consolidation Act of 2002*, P.L. 107-187, 10 June 2002.
- P.L. 107-206: *2002 Supplemental Appropriations Act for Further Recovery from and Response to Terrorist Attacks on the United States*, P.L. 107-206, 2 August 2002.
- P.L. 107-206: *American Service-Members' Protection Act of 2002*, Title II, P.L. 107-206, 2 August 2002.
- P.L. 107-228: *Foreign Relations Authorization Act, Fiscal Year 2003*, P.L. 107-228, 30 September 2002.
- P.L. 107-228: *Department of State Authorization Act, Fiscal Year 2003*, Division A, P.L. 107-228, 30 September 2002.
- P.L. 107-228: *Security Assistance Act of 2002*, Division B, P.L. 107-228, 30 September 2002.
- P.L. 107-240: *Continuing Appropriations for the Fiscal Year 2004, and for Other Purposes*, P.L. 107-240, 11 October 2002.
- P.L. 107-248: *Department of Defense Appropriations Act, 2003*, P.L. 107-248, 23 October 2002.
- P.L. 107-314: *Bob Stump National Defense Authorization Act for Fiscal Year 2003*, P.L. 107-314, 2 December 2002.
- P.L. 107-327: *Afghanistan Freedom Support Act of 2002*, P.L. 107-327, 4 December 2002.
- P.L. 108-7: *Consolidated Appropriations Resolution, 2003*, P.L. 108-7, 20 February 2003.
- P.L. 108-7: *Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2003*, Division E, P.L. 108-7, 20 February 2003.
- P.L. 108-11: *Emergency Wartime Supplemental Appropriations Act, 2003*, P.L. 108-11, 16 April 2003.
- P.L. 108-84: *Continuing Appropriations for the Fiscal Year 2004, and for Other Purposes*, P.L. 108-84, 30 September 2003.
- P.L. 108-87: *Department of Defense Appropriations Act, 2004*, P.L. 108-87, 30 September 2003.

- P.L. 108-106: *Emergency Supplemental Appropriations Act for Defense and the Reconstruction of Iraq and Afghanistan, 2004*, P.L. 108-106, 6 November, 2003.
- P.L. 108-132: *Military Construction Appropriations Act, 2004*, P.L. 108-132, 22 November 2003.
- P.L. 108-136: *National Defense Authorization Act, Fiscal Year 2004*, P.L. 108-136, 24 November 2003.
- P.L. 108-175: *Syria Accountability and Lebanese Sovereignty Restoration Act of 2003*, P.L. 108-175, 12 December 2003.
- P.L. 108-199: *Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2004*, Division B, P.L. 108-199, 23 January 2004.
- P.L. 108-199: *Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2004*, Division D, P.L. 108-199, 23 January 2004.

Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2004, Division D, P.L. 108-199, 23 January 2004

• Enacted as Division D of the *Consolidated Appropriations Act, 2004*, P.L. 108-199, 23 January 2004 (HR2673). The original bills were reported out of the House and Senate Appropriations Committees as HR2800 (H.Rpt. 108-222) on 17 June 2003 and S1426 (S.Rpt. 108-106) on 17 July 2003, respectively. The House and Senate passed their bills on 23 July 2003 and 30 October 2003, respectively with no immediate conference action to iron out the differences. A conference was finally convened and reported out on 25 November 2003 with H.Rpt. 108-401. This conference combined the seven remaining appropriations requiring passage for the new fiscal year into HR2673, originally introduced as the Agriculture appropriations bill. The House passed the consolidated appropriation on 8 December 2003 before the holiday recess with the Senate passage taking place on 22 January 2004 after the recess. Table Two displays the funding initially appropriated within Division D for the four traditional security assistance programs – Foreign Military Financing Program (FMFP), International Military Education and Training (IMET), Economic Support Funding (ESF), and Peacekeeping Operations (PKO) amounting to a total of \$6,611,600,000.

• However, Division H, Section 168 (b), of the same P.L. 108-199 directed an across-the-board rescission (or reduction) of any discretionary account within the Act and any other enacted appropriation for the fiscal year by 0.59 percent. This rescission was to exclude the three defense-related appropriations -- *Emergency Supplemental Appropriations Act for Defense and the Reconstruction of Iraq and Afghanistan, 2004*, P.L. 108-106, 6 November 2003; the *Department of Defense Appropriations Act, 2004*, P.L. 108-87, 30 September 2003; and the *Military Construction Appropriations Act, 2004*, P.L. 108-132, 22 November 2003. The rescission was to be applied

proportionately to each discretionary account and each item of budget authority described in such subsection and within each such account and item, to each program, project, and activity. This overall legislative action is similar to last year's *Consolidated Appropriation Resolution, 2003*, P.L. 108-06, 20 February 2003, which combined the remaining eleven necessary appropriations with a likewise similar rescission of 0.65 percent.

Table Two

**FY2004 Security Assistance Appropriations
and Rescissions (P.L. 108-199)**

<u>Program</u>	<u>Initial Appropriation</u>	<u>Rescission</u>	<u>Final Appropriation</u>
FMFP	\$4,294,000,000	\$25,335,000	\$4,268,665,000
IMET	91,700,000	541,000	91,159,000
ESF	2,151,000,000	12,691,000	2,138,309,000
PKO	<u>74,900,000</u>	<u>442,000</u>	<u>74,458,000</u>
Total	\$6,611,600,000	\$39,009,000	\$6,572,591,000

- On 4 March 2004, the Office of the Management and Budget (OMB) submitted a report to Congress outlining how the directed rescission was to be implemented. The Allocation of Foreign Operations Funding Report, required by Section 653(a), FAA, was submitted by the Department of State to Congress on 5 March 2004 indicating how the appropriated funding after rescission was to be distributed. Table Two also displays funding rescissions and resultant appropriation available for allocation as it affected the four security assistance programs. For FY2004, the total rescission for security assistance programs was \$39,009,000 with the resultant lower figure available for initial allocation being \$6,572,591,000.

- A separate but very much related piece of legislation was enacted for FY2004 security assistance. On 24 September 2003, the Administration requested authority for a no-subsidy \$550,000,000 FMFP direct loan during FY2004 to the **Czech Republic** for the purchase of fourteen used F-16s from the U.S., to include training, weapons, and logistics support. The loan could also be used for the second option of purchasing U.S. training, weapons, and logistics support in the event the Czech Republic purchased U.S.-origin, used F-16s or F-18s from Belgium, the Netherlands, Turkey, or Canada. This non-appropriation Section 23, AECA, loan authority was inserted as Section 133 of the first continuing resolution for FY2004, H.J.Res. 69, enacted on 30 September 2003 as P.L. 108-84. The authority required the loan to be repaid in not more than twelve years, provided no funds for any subsidy costs or loan fees, and required the Czech Republic to pay the full cost of the loan including the cost of any defaults.

Title III, Military Assistance, Foreign Military Financing Program

- Initially appropriated \$4,294,000,000 as FMFP grant assistance to carry out the provisions of Section 23, AECA. The mandated 0.59 percent rescission amounted to \$25,335,000 reducing the total grant program for the year to \$4,268,665,000. This new total is in addition the FMFP direct loan separately authorized for the **Czech Republic** by P.L. 108-84, and the emergency supplemental FMFP grant for **Afghanistan** separately appropriated by P.L. 108-106.

- As noted in Table Three, the FMFP funding originally requested by the Administration was for \$4,414,000,000. The initial conference appropriation of \$4,294,000,000 was lower than the Administration request and the House and Senate proposals.

Table Three

FY2004 Foreign Military Financing Program (P.L. 108-199)

<u>Administration</u>	<u>House</u>	<u>Senate</u>	<u>Initial Appropriation</u>
\$4,414,000,000	\$4,314,000,000	\$4,384,000,000	\$4,294,000,000

Note: The initial appropriation does not include the rescission of \$25,335,000.

- The two legislated “earmarks” for FY2004 FMFP grant appropriations include:
 - Not less than \$2,160,000,000 for **Israel** to be disbursed within thirty days of the enactment of this Act.
 - After the rescission, Israel received an initial allocation of \$2,147,256,000.
 - This is the sixth year of a ten-year plan in which Israel’s FMFP assistance is to increase by \$60,000,000 annually to coincide with an annual decrease of \$120,000,000 in ESF grant assistance towards achieving Israel’s ten-year goal of receiving no ESF from the U.S. beginning in FY2009.
 - As in prior years, to the extent Israel requests that funds be used for such purposes, funds made available to Israel shall, as agreed by Israel and the U.S., be available for advanced weapons systems, of which not less than \$568,000,000 shall be available for procurement in Israel of defense articles and services, to include research and development. This new value is \$18,000,000 greater than authorized for FY2003.
 - Not less than \$1,300,000,000 for **Egypt**.

- After the rescission, Egypt received an initial allocation of \$1,292,330,000.

- As was the authority for FY2003, any funds estimated to be outlayed for Egypt during the fiscal year shall be transferred to an interest bearing account for Egypt in the Federal Reserve Bank of New York within thirty days of enactment of this Act.

- Before rescission, total earmarked funding within the FMFP heading for FY2004 is \$3,460,000,000 or nearly 81 percent of the total initial appropriation leaving \$834,000,000 for other FMFP programs.

- In comparison, the earmarked figure for FY2003 was \$3,400,000,000 or just over 83 percent of the total initial appropriation of \$4,072,000,000 leaving \$672,000,000 for other programs.

- While not using the earmarking procedure, the conference report, H.Rpt. 108-401, communicated the following:

- While the Administration stated that the P.L. 108-84 authorized FMFP loan of \$550,000,000 for the **Czech Republic** would have no budgetary impact, the Congressional Budget Office did not concur and estimated the subsidy cost to be \$20,000,000. As this cost must be accommodated within the budget allocation for this bill, the conference managers made necessary reductions to absorb this credit subsidy within the amounts provided under this heading.

- Agreement that **Afghanistan** is to receive \$50,000,000 in FMFP funding. After rescission, Afghanistan was allocated \$49,705,000.

- Agreement with the Senate proposal that the **Philippines** is to receive \$20,000,000 in FMFP funding. After rescission, the Philippines was allocated \$19,880,000.

- Agreement with the House proposal that **Uganda** is to receive \$2,000,000 in FMFP funding for counter-terrorism efforts. After rescission, Uganda was allocated \$1,990,000.

- While strongly supporting expansion of FMFP funding to Poland and increased assistance for all nations that are contributing coalition forces in Iraq, the managers did not concur with the Senate earmark proposal of \$27,000,000 for Poland. After rescission, **Poland** was allocated \$24,000,000. The managers expect the Administration to propose increased FMFP funding support for **Poland, Bulgaria, Latvia, and Lithuania** in the FY2005 budget request.

- Non-earmarked FMFP funding language legislated within this heading included:

- As proposed by the Senate, \$206,000,000 should be made available for **Jordan**. After rescission, Jordan was initially allocated \$204,785,000.

- As proposed by the Senate, \$17,000,000 may be transferred to and merged with funds appropriated under the heading “Andean Counterdrug Initiative” and made available for aircraft and related assistance for the **Colombian National Police**.

- Not more than \$40,500,000 may be obligated for necessary expenses, including the purchase of passenger motor vehicles for replacement only for use outside the U.S., for the general costs of administering military assistance and sales. This figure was \$38,000,000 for FY2003.

- Not more than \$361,000,000 of the non-appropriated FMS administrative budget (FMS Admin Fund) may be obligated for expenses incurred by the Department of Defense during FY2004. This is to support administrative expenses of security assistance organizations (SAOs), agencies, military departments, etc., related to the implementation of foreign military sales (FMS). This account is funded by surcharges which are added to all FMS cases in order to recover U.S. government expenses for sales negotiations, case implementation, program control, computer programming, accounting and budgeting, and other FMS-related administrative activities at command headquarters and higher levels. This ceiling may be exceeded only through regular notification procedures of the two congressional appropriations committees. The ceiling authorized for FY2003 was \$356,000,000.

- Other legislated language within the FMFP heading included:

- As before, no FMFP funding shall be available for **Sudan, Guatemala and Liberia**.

- As before, FMFP funding may be used for demining, the clearance of unexploded ordnance, and related activities, and may include activities implemented through nongovernmental and international organizations.

- This proviso or any other provision of law relating to the use of FMFP funding in this Act or any other provision of law relating to the use of funds for programs under this heading, including provisions contained in previously enacted appropriations acts, shall not apply to activities relating to the clearance of unexploded ordnance resulting from U.S. armed forces testing or training exercises. However, this does not apply to **San Jose Island, Republic of Panama**, where such activities are already underway.

- As before, only those countries for which assistance was justified for FMFP in the FY1989 congressional presentation for security assistance may use FMFP funds for procurement of defense articles and service or design and construction services that are not sold by the U.S. government under the AECA

- This includes the countries of **Israel, Egypt, Jordan, Morocco, Tunisia, Turkey, Portugal, Pakistan, Yemen, and Greece** being eligible to use FY2004 FMFP for Direct Commercial Sales (DCS). Refer to DoD 5105.38-M, *Security Assistance Management Manual (SAMM)*, Section C9.7.4, for further information on using FMFP for DCS.

- Table Four provides the FY2004 FMFP allocations which were notified to Congress on 5 March 2004 in accordance with Section 653(a), FAA. For comparison, the final allocations for FY2003 and the Administration's FY2004 request are also included.

- It must be noted that the FY2003 funding column includes the emergency supplemental appropriations of \$2,039,000,000 provided by P.L. 108-11 to several countries. It must be likewise noted that the FY2003 figures do not reflect the large \$3,800,000,000 FMFP direct loan authorized by Section 128, P.L. 107-240, for **Poland** to be used for its FMS purchase of F-16s and associated support.

- Additionally, the FY2004 funding column does not include the emergency supplemental appropriations of \$287,000,000 provided by P.L. 108-106 and reprogrammed emergency recovery funding (ERF) provided by P.L. 107-38 in the amount of \$77,000,000, both to **Afghanistan**. It must be likewise noted that the FY2004 figures do not reflect the \$550,000,000 FMFP direct loan authorized by Section 133, P.L. 108-84, for the **Czech Republic** to be used for an FMS purchase of U.S. or U.S.-origin aircraft and associated support.

Table Four

**Foreign Military Financing Program (FMFP)
FY2004 Funding Allocations
(in millions)**

<u>Country/Program by Geographical Region</u>	<u>FY2003 FMFP Allocation</u>	<u>FY2004 Budget Request</u>	<u>FY2004 FMFP Allocation</u>
NEAR EAST			
Bahrain	\$0.000	\$25.000	\$24.850
Bahrain SUP	90.000		
Egypt	1,291.500	1,300.000	1,292.330
Israel	2,086.350	2,160.000	2,147.256
Israel SUP	1,000.000		
Jordan	198.000	206.000	204.785
Jordan SUP	406.000		
Morocco	4.900	10.000	9.940

Oman	19.500	25.000	24.850
Oman SUP	61.500		
Tunisia	4.900	10.000	9.940
Yemen	<u>1.900</u>	<u>15.000</u>	<u>14.910</u>
Sub-Total	\$5,164.600	\$3,751.000	\$3,728.861

EUROPE AND EURASIA

Albania	\$4.900	\$4.000	\$5.000
Albania SUP	3.000		
Armenia	5.000	2.500	2.485
Azerbaijan	5.000	2.500	2.485
Bosnia and Herzegovina	2.400	2.000	14.900
Bulgaria	9.000	8.500	8.450
Bulgaria SUP	10.000		
Croatia	5.500	5.000	0.000
Czech Republic	10.900	10.000	7.950
Czech Republic SUP	15.000		
Estonia	6.500	6.250	6.000
Estonia SUP	2.750		
Georgia	6.900	10.000	12.000
Hungary	10.900	10.000	6.955
Hungary SUP	8.000		
Kazakhstan	2.900	3.000	2.980
Kyrgyz Republic	3.900	6.000	4.075
Latvia	6.500	6.250	6.000
Latvia SUP	2.750		
Lithuania	6.500	7.000	6.400
Lithuania SUP	4.000		
Macedonia	10.900	10.000	7.950
Macedonia SUP	1.000		
Malta	5.000	1.000	0.990
Moldova	1.000	1.000	0.990
Poland	12.900	12.900	24.000
Poland SUP	15.000		
Romania	9.900	9.000	8.950
Romania SUP	15.000		
Slovakia	8.000	8.000	6.650
Slovakia SUP	6.500		
Slovenia	4.000	4.000	2.000
Tajikistan	0.000	0.700	0.995
Turkey	17.350	50.000	35.000
Turkmenistan	0.690	0.700	0.500
Ukraine	3.000	3.000	5.000
Ukraine SUP	1.500		
Uzbekistan	<u>8.600</u>	<u>10.000</u>	<u>6.000</u>

Sub-Total	\$252.640	\$192.400	\$184.705
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WESTERN HEMISPHERE

Argentina	\$1.990	\$1.500	\$1.000
Bahamas	0.090	0.100	0.099
Belize	0.290	0.200	0.199
Bolivia	1.990	4.000	3.976
Chile	0.990	0.500	0.495
Colombia	0.000	110.000	109.350
Colombia SUP	17.100		
Dominican Republic	0.300	0.320	2.000
Ecuador	0.990	15.000	6.955
El Salvador	2.480	2.000	3.000
Guyana	0.390	0.100	0.095
Haiti	0.390	0.330	0.295
Honduras	0.168	0.000	2.000
Jamaica	0.690	0.600	0.597
Nicaragua	1.000	0.500	0.495
Panama	0.990	2.500	2.000
Peru	0.990	2.000	1.730
Suriname	0.240	0.150	0.145
Trinidad and Tobago	0.390	0.300	0.000
Uruguay	0.990	1.000	0.990
Eastern Caribbean	<u>0.782</u>	<u>2.000</u>	<u>3.330</u>
Sub-Total	\$33.240	\$143.100	\$138.751

AFRICA

Botswana	\$0.490	\$1.000	\$0.980
Djibouti	8.150	2.000	5.990
Djibouti SUP	5.000		
Eritrea	0.000	0.500	0.480
Ethiopia	4.000	0.500	2.480
Ghana	0.490	0.500	0.480
Kenya	1.000	6.500	6.250
Nigeria	0.000	4.000	0.385
Sao Tome and Principe	0.500	0.000	0.000
Senegal	0.480	0.500	0.480
South Africa	5.950	6.000	0.000
Uganda	0.000	0.000	1.990
Military Health Affairs	<u>1.990</u>	<u>1.500</u>	<u>1.490</u>
Sub-Total	\$28.050	\$23.000	\$21.005

EAST ASIA AND THE PACIFIC

East Timor	\$1.990	\$2.000	\$1.988
Mongolia	0.990	1.000	0.995
Philippines	19.870	17.000	19.880
Philippines SUP	30.000		
Thailand	<u>1.990</u>	<u>1.000</u>	<u>0.995</u>
Sub-Total	\$54.840	\$21.000	\$23.858

SOUTH ASIA

Afghanistan	\$21.000	\$150.000	\$49.705
Afghanistan SUP	170.000		
India	0.000	5.000	0.000
Nepal	2.950	10.000	3.975
Pakistan	49.500	75.000	74.560
Pakistan SUP	175.000		
Sri Lanka	<u>0.000</u>	<u>1.000</u>	<u>0.995</u>
Sub-Total	\$418.450	\$241.000	\$129.235

GLOBAL

EIPC	\$3.050	\$2.000	\$1.990
FMFP Admin Costs	<u>36.762</u>	<u>40.500</u>	<u>40.260</u>
Sub-Total	\$39.812	\$42.500	\$42.250

Total for Allocation	\$5,991.632	\$4,414.000	\$4,268.665
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Rescission	<u>\$26.468</u>		<u>\$25.335</u>
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Total Appropriation	\$6,018.100	\$4,414.000	\$4,294.000
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Note: EIPC is Enhanced International Peacekeeping Capabilities

Title III, Military Assistance, International Military Education and Training

- Initially appropriated \$91,700,000 as IMET grant assistance to carry out the provisions of Section 541, FAA, of which \$3,000,000 may remain available until expended. The mandated 0.59 percent rescission amounted to \$541,000 reducing the total grant program for the year to \$91,159,000.

- As noted in Table Five, the IMET funding originally requested by the Administration and agreed upon by the Senate for initial appropriation was \$91,700,000. After the rescission was applied, the lower House figure was very close to the final appropriation of \$91,159,000.

Table Five

FY2004 International Military Education and Training (P.L. 108-199)

<u>Administration</u>	<u>House</u>	<u>Senate</u>	<u>Initial Appropriation</u>
\$91,700,000	\$91,100,000	\$91,700,000	\$91,700,000

Note: The initial appropriation does not include the rescission of \$541,000.

- As was the case last year, civilian personnel for whom IMET funding may be provided may include civilians who are not members of a government whose participation would contribute to improved civil-military relations, civilian control of the military, or respect for human rights.

- IMET funding for **Guatemala** may only be available for Expanded IMET (E-IMET). Funds made available for **Algeria, Cambodia, Nigeria, and Guatemala** may only be provided through regular notification procedures to the congressional committees on appropriations. This notification stipulation did not apply to Cambodia in FY2003.

- The conference report, H.Rpt. 108-401, communicated the following regarding IMET:

- The managers endorsed the Senate committee report, S.Rpt. 108-106, requiring improved performance evaluation procedures for the IMET program. The conference managers “expect not later than 90 days after enactment of this Act,” that the Secretary of State, after consultation with Secretary of Defense, shall report to the congressional committees on appropriations on other factors that will be used to measure and evaluate the success of the IMET program. The conference was critical of just only counting the number of trainees.

- The managers also endorsed the Senate committee report language commending the Administration for issuing new guidance for the implementation of the Informational Program (IP) but that more needs to be done to maximize the goals of IMET. The Senate committee requested that the Secretary of State submit a report not later than 120 days after enactment of this Act on the status of the IP guidance and the impact this has had on making the IP program more consistent with the IMET program goals.

- The managers endorsed the House committee report, H.Rpt. 108-222, regarding the extreme value of the annual Foreign Military Training Report required both by the annual foreign operations appropriations act and Section 656, FAA. Beginning with Section 554 of this Act, the annual report shall be submitted in accordance with the

FAA, due not later than 31 January of each year. The annual report is to be submitted to the four congressional foreign relations and appropriations committees.

- Table Six provides the FY2004 IMET allocations which were notified to Congress on 5 March 2004. The table also includes the final funding levels allocated in FY2003 and the funding requested by the Administration for FY2004. The IMET program did not receive any additional funding from the various emergency supplemental appropriations.

Table Six

**International Military Education and Training (IMET)
FY2004 Funding Allocations
(in thousands)**

<u>Country/Program by Geographical Region</u>	<u>FY2003 IMET Allocation</u>	<u>FY2004 Budget Request</u>	<u>FY2004 IMET Allocation</u>
NEAR EAST			
Algeria	\$612	\$550	\$550
Bahrain	448	600	600
Egypt	1,232	1,200	1,200
Jordan	2,400	2,900	2,900
Lebanon	700	700	700
Morocco	1,575	1,750	1,750
Oman	567	1,000	1,000
Saudi Arabia	22	25	25
Tunisia	1,500	1,750	1,750
Yemen	<u>638</u>	<u>1,000</u>	<u>1,000</u>
Sub-Total	\$9,694	\$11,475	\$11,475
EUROPE AND EURASIA			
Albania	\$957	\$975	\$975
Armenia	659	900	900
Azerbaijan	878	900	900
Bosnia and Herzegovina	796	900	900
Bulgaria	1,324	1,350	1,350
Croatia	700	800	800
Czech Republic	1,929	1,900	1,900
Estonia	1,099	1,200	1,200
Georgia	1,184	1,300	1,300
Greece	594	600	600

Hungary	1,888	1,900	1,900
Kazakhstan	872	1,200	1,200
Kyrgyz Republic	1,068	1,200	1,200
Latvia	1,091	1,200	1,200
Lithuania	1,087	1,200	1,200
Macedonia	676	700	700
Malta	292	250	250
Moldova	988	1,000	1,000
Poland	2,172	2,000	2,000
Portugal	850	850	850
Romania	1,651	1,500	1,500
Russia	777	800	800
Serbia and Montenegro	00	500	250
Slovakia	920	950	950
Slovenia	935	950	950
Tajikistan	339	400	400
Turkey	2,800	5,000	5,000
Turkmenistan	216	450	450
Ukraine	1,698	1,700	1,700
Uzbekistan	<u>1,104</u>	<u>1,600</u>	<u>1,350</u>
Sub-Total	\$31,544	\$36,175	\$35,675

WESTERN HEMISPHERE

Argentina	\$1,000	\$1,100	\$1,100
Bahamas	146	140	165
Belize	173	200	200
Bolivia	800	900	900
Brazil	483	500	00
Chile	559	600	600
Colombia	1,165	1,600	1,800
Costa Rica	336	400	00
Dominican Republic	570	500	800
Ecuador	645	650	650
El Salvador	1,165	900	1,200
Guatemala	350	350	350
Guyana	316	275	375
Haiti	51	200	200
Honduras	724	650	1,000
Jamaica	646	600	700
Mexico	1,250	1,275	1,275
Nicaragua	600	400	600
Panama	209	200	400
Paraguay	297	300	300
Peru	592	700	700
Suriname	156	150	150

Trinidad and Tobago	150	150	00
Uruguay	450	450	450
Venezuela	683	700	00
Eastern Caribbean	<u>686</u>	<u>700</u>	<u>875</u>
Sub-Total	\$14,202	\$14,590	\$14,790

AFRICA

Angola	\$152	\$100	\$100
Benin	382	500	500
Botswana	716	700	700
Burkina Faso	00	50	50
Burundi	00	100	100
Cameroon	306	200	200
Cape Verde	143	120	120
Central African Republic	13	150	150
Chad	253	150	150
Comoros	00	50	00
Cote d'Ivoire	00	00	50
Democratic Republic of Congo	00	100	100
Djibouti	154	225	325
Equatorial Guinea	00	50	50
Eritrea	181	450	450
Ethiopia	210	570	570
Gabon	233	160	160
Gambia	68	100	100
Ghana	522	500	500
Guinea	210	350	350
Guinea-Bissau	77	100	100
Kenya	596	600	600
Lesotho	52	125	125
Madagascar	209	200	200
Malawi	312	360	360
Mali	309	350	350
Mauritania	131	125	125
Mauritius	110	125	125
Mozambique	196	225	225
Namibia	175	225	225
Niger	103	200	200
Nigeria	96	850	850
Republic of the Congo	108	110	110
Rwanda	162	175	175
Sao Tome and Principe	180	100	100
Senegal	1,062	1,000	1,000
Seychelles	53	100	100
Sierra Leone	318	300	300

South Africa	1,258	1,600	1,600
Swaziland	97	135	135
Tanzania	210	230	230
Togo	116	125	125
Uganda	170	200	200
Zambia	225	225	225
ECOWAS	<u>00</u>	<u>100</u>	<u>100</u>
Sub-Total	\$9,868	\$12,510	\$12,610

EAST ASIA AND THE PACIFIC

Cambodia	\$00	\$200	\$00
East Timor	119	150	150
Fiji	00	200	200
Indonesia	276	600	459
Laos	00	100	100
Malaysia	831	1,200	1,200
Mongolia	767	850	850
Papua New Guinea	256	300	300
Philippines	2,400	2,700	2,700
Samoa	76	150	150
Solomon Islands	151	50	50
Thailand	1,768	2,450	2,450
Tonga	127	125	125
Vanuatu	106	100	100
Vietnam	<u>00</u>	<u>100</u>	<u>100</u>
Sub-Total	\$6,877	\$9275	\$8,934

SOUTH ASIA

Afghanistan	\$387	\$600	\$600
Bangladesh	772	800	800
India	1,000	1,250	1,250
Maldives	139	175	175
Nepal	500	600	600
Pakistan	990	1,250	1,250
Sri Lanka	<u>307</u>	<u>500</u>	<u>500</u>
Sub-Total	\$4,095	\$5,175	\$5,175

GLOBAL

E-IMET Schools	\$3,000	\$2,000	\$2,000
General Costs	<u>200</u>	<u>500</u>	<u>500</u>
Sub-Total	\$3,200	\$2,500	\$2,500

Total for Allocation	\$79,480	\$91,700	\$91,159
Rescission	<u>\$520</u>		<u>\$541</u>
Total Appropriation	\$80,000	\$91,700	\$91,700

Note: ECOWAS is Economic Community of West African States.

Title II, Other Bilateral Economic Assistance, Economic Support Fund

- Initially appropriated \$2,132,500,000 as ESF grant assistance, to remain available until 30 September 2005, to carry out the provisions of Chapter 4, Part II, FAA. A second ESF appropriation of \$18,500,000 in grant funding is also provided for the International Fund for **Ireland** to be made available in accordance with the *Anglo-Irish Agreement Support Act of 1986*, P.L. 99-415, 19 September 1986. The overall ESF total of \$2,151,000,000 is reduced by \$12,691,000 as mandated by the 0.59 percent rescission to a final total of \$2,151,000,000. This new total is in addition to the emergency supplemental ESF grant funding of \$972,000,000 separately appropriated by P.L. 108-106 for **Afghanistan, Jordan, and Pakistan**

- As noted in Table Seven, and discounting the significant emergency supplemental, the initial appropriated amount of \$2,151,000,000 is less than the House proposal of \$2,260,100,000 and much less than the Administration's request for \$2,535,000,000 and the Senate proposal of \$2,415,000,000. The House proposal includes the International Fund for Ireland separately proposed for \$19,600,000. The Senate proposal did not address this annually supported Fund.

Table Seven

FY2004 Economic Support Fund (P.L. 108-199)

<u>Administration</u>	<u>House</u>	<u>Senate</u>	<u>Initial Appropriation</u>
\$2,535,000,000	\$2,260,100,000	\$2,415,000,000	\$2,151,000,000

Note: The initial appropriation does not include the rescission of \$12,691,000.

- The seven legislated “earmarks” for FY2004 ESF grant appropriations include:
 - Not less than \$480,000,000 for **Israel** to be disbursed within thirty days of the enactment of this Act.
 - After the rescission, Israel received an initial allocation of \$477,168,000.

- As in previous years, in exercising the authority for the cash transfer, the President shall ensure that the level of assistance does not cause an adverse impact on the total level of nonmilitary exports from the U.S. to Israel, and that Israel enters into a side letter agreement in an amount proportional to the FY1999 agreement.

- As previously noted in the FMFP for Israel discussion, this is the sixth year of a ten-year plan to increase the FMFP and phase out the ESF program by FY2009.

- Israel received \$596,100,000 in ESF assistance in FY2003. Additionally, the *Emergency Wartime Supplemental Appropriations Act, 2003*, P.L. 108-11, 16 April 2003, separately authorized a loan guarantee not to exceed \$9,000,000,000 only to be used to support activities in the geographic areas which were subject to the administration of the government of Israel before 5 June 1967.

- Not less than \$575,000,000 for **Egypt** of which sum cash transfer assistance shall be provided with the understanding that Egypt will undertake significant economic reforms which were undertaken in previous fiscal years, and of which not less than \$200,000,000 shall be provided as Commodity Import Program assistance.

- After the rescission, Egypt received an initial allocation of \$571,608,000.

- Egypt received \$611,002,000 in ESF assistance in FY2003. Additionally, the *Emergency Wartime Supplemental Appropriations Act, 2003*, P.L. 108-11, 16 April 2003, separately appropriated \$300,000,000 in grant ESF and authorized a loan guarantee not to exceed \$2,000,000,000 for Egypt only to be used to support ESF activities under any terms and conditions as determined by the President and should take into consideration budgetary and economic reforms undertaken by Egypt.

- Not less than \$250,000,000 for **Jordan**.

- After the rescission, Jordan received an initial allocation of \$248,525,000.

- Jordan received \$248,000,000 in ESF assistance in FY2003. Additionally, the *Emergency Wartime Supplemental Appropriations Act, 2003*, P.L. 108-11, 16 April 2003, separately appropriated \$700,000,000 in grant ESF.

- Specifically, \$13,500,000 for **Cyprus** to be used only for scholarships, administrative support of the scholarship program, bicommunal projects, and measures aimed at reunification of the island and designed to reduce tensions and promote peace and cooperation between the two communities on Cyprus.

- After the rescission, Cyprus received an initial allocation of \$13,420,000.

- This same program received \$14,902,000 in ESF assistance in FY2003.

- Specifically, \$35,000,000 for **Lebanon** of which not less than \$4,000,000 should be used for American educational institutions for scholarships and other programs.

- Any of these funds made available for assistance to the Central Government of Lebanon shall be subject to the regular notification procedures of the congressional committees on appropriations.

- After the rescission, the Lebanon ESF program received an initial allocation of \$34,794,000.

- This same program received \$34,772,000 in ESF assistance in FY2003.

- Not less than \$22,500,000 for the **Democratic Republic of Timor-Leste** of which up to \$1,000,000 may be available for USAID administrative expenses.

- After the rescission, the Timor-Leste ESF program received an initial allocation of \$22,367,000.

- This same program received \$24,838,000 in ESF assistance in FY2003.

- Specifically, \$5,000,000 to continue to support the provision of wheelchairs for needy persons in developing countries.

- After rescission, this ESF wheelchair program was allocated \$4,971,000. No ESF funding was allocated to this program during FY2003.

- Under a separate ESF heading, specifically \$18,500,000 for the International Fund for **Ireland**.

- After the rescission, this Fund received an initial allocation of \$18,391,000.

- The International Fund for Ireland received \$24,838,000 in ESF assistance in FY2003.

- Without an amount being specified, ESF funds are to be made available for USAID administrative costs to implement regional programs in **Asia and the Near East**, including the **Middle East Partnership Initiative**, in addition to amounts otherwise available for such purposes.

- Before rescission, total earmarked funding within the ESF heading for FY2004 is \$1,399,500,000 or about 65 percent of the total initial appropriation leaving \$751,500,000 for other ESF programs.

- In comparison, the earmarked figure for FY2003 was \$1,375,000,000 or 61 percent of the total initial appropriation leaving \$880,245,000 for other programs.

- Other ESF programs legislated to receive funds, but not earmarked, include:
 - Not less than \$1,500,000 for technical assistance for countries to implement and enforce the **Kimberley Process Certification Scheme**.
 - This is an international regime aimed at stopping the trade in “Conflict Diamonds” in Africa.
 - After rescission, the Kimberley Process program received an allocation of \$1,491,000.
 - The FY2003 Kimberley Process received \$2,000,000 in ESF assistance.
 - Not less than \$1,750,000 for **East Asia and Pacific Environment Initiatives**.
 - After rescission, this program was allocated \$1,740,000. No funding was provided in FY2003.
 - Without an amount being specified, ESF funds should be made available for supporting the development of justice and reconciliation mechanisms in the **Democratic Republic of the Congo, Rwanda, Burundi, and Uganda**, including programs to improve local capacity to prevent and respond to gender-based violence.
 - Without an amount specified, ESF funds may be used to provide assistance to the **National Democratic Alliance of Sudan** to strengthen its ability to protect civilians from attacks, slave raids, and aerial bombardment by Sudanese government forces and its militia allies, and the provision of such funds shall be subject to the regular notification procedures of the congressional committees on appropriations. This assistance is further defined to include non-lethal, non-food aid such as blankets, medicine, fuel, mobile clinics, water-drilling equipment, communications equipment to notify civilians of aerial bombardment, non-military vehicles, tents, and shoes.
 - Authority was provided to transfer from “Iraq Relief and Reconstruction Fund” heading within *Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004*, P.L. 108-106, 6 November 2003, up to \$100,000,000 for use as ESF assistance to **Turkey** and up to \$30,000,000 for use as ESF assistance to the **Middle East Partnership Initiative**
 - After rescission, Turkey was initially allocated \$99,410,000 in grant ESF.
 - Turkey received an ESF allocation of \$1,000,000,000 during FY2003, appropriated by the FY2003 emergency supplemental appropriations act, and was recommended by the Administration to receive \$200,000,000 during FY2004.

- After rescission, the Middle East Partnership Initiative received an initial allocation of \$89,469,000.

- The Middle East Partnership Initiative received an ESF allocation of \$90,000,000 during FY2003, appropriated by the FY2003 emergency supplemental appropriations act, and was recommended by the Administrative to receive \$145,000,000 during FY2004.

- The conference report does not include the \$200,000,000 in ESF assistance for **Pakistan** as requested by the President and no funding under this Act was allocated. However, it was noted that Pakistan was provided the same funding level allocation separately provided by *Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004*, P.L. 108-106, 6 November 2003.

- Table Eight provides the FY2004 ESF allocations which were notified to Congress on 5 March 2004. For comparison, the final allocations for FY2003 and the Administration's FY2004 request are also included.

- It must be noted that the FY2003 funding allocation column includes the emergency supplemental appropriations of \$2,522,000,000 provided by P.L. 108-11 to several countries and programs. It must also be noted that the authority for the non-appropriated ESF direct loans and guaranteed loans of \$8,500,000,000 for **Turkey**, \$2,000,000,000 for **Egypt**, and \$9,000,000,000 for **Israel** are not reflected in the FY2003 column.

- Additionally the FY2004 funding allocation column does not include the emergency supplemental appropriations provided by P.L. 108-106 for \$972,000,000 to **Afghanistan, Jordan, and Pakistan** or the reprogrammed emergency recovery fund (ERF) provided by P.L. 107-38 to Afghanistan in the amount of \$153,000,000.

Table Eight

**Economic Support Fund (ESF)
FY2004 Funding Allocations
(in thousands)**

<u>Country/Program by Geographical Region</u>	<u>FY2003 ESF Allocation</u>	<u>FY2004 Budget Request</u>	<u>FY2004 ESF Allocation</u>
NEAR EAST			
Egypt	\$611,002	\$575,000	\$571,608
Egypt SUP	300,000		
Israel	596,100	480,000	477,168
Jordan	248,000	250,000	248,525

Jordan SUP	700,000		
Lebanon	34,772	32,000	34,794
Yemen	9,898	15,000	11,432
Iraq Opposition	10,000	00	00
Iraq Prepositioning	140,000	00	00
Iraq War Crimes Tribunal SUP	10,000		
M.E. Democracy	4,000	00	00
M.E. Multilaterals	2,900	3,000	00
M.E. Partnership Initiative	00	145,000	89,469
M.E. Partnership SUP	90,000		
M.E. Regional Cooperation	4,900	5,000	5,467
NED Muslim			
Democracy Programs	00	00	3,479
U.S.-North Africa			
Economic Partnership	3,000	00	00
West Bank/Gaza	74,500	75,000	74,558
West Bank/Gaza SUP	<u>50,000</u>		
Sub-Total	\$2,889,072	\$1,580,000	\$1,516,500

EUROPE AND EURASIA

Cyprus	\$14,902	\$7,500	\$13,420
Turkey	00	200,000	99,410
Turkey SUP	1,000,000		
Int'l Fund for Ireland	24,838	8,500	18,391
Irish Visa Program	<u>3,460</u>	<u>4,000</u>	<u>3,479</u>
Sub-Total	\$1,043,200	\$220,000	\$134,700

WESTERN HEMISPHERE

Bolivia	\$10,000	\$8,000	\$8,000
Bolivia REIMB	2,000	00	00
Cuba	6,000	7,000	6,959
Dominican Republic	3,000	3,000	2,982
Ecuador	14,500	14,000	12,923
Guatemala	6,500	5,000	4,971
Mexico	11,650	12,000	11,432
Panama	3,000	3,500	2,982
Paraguay	3,000	3,500	2,982
Peru	8,000	9,000	7,953
Peru REIMB	2,000	00	00
Venezuela	470	500	497
Administration of Justice	5,000	7,000	4,924
Hemispheric Cooperation	00	00	9,941
Peru-Ecuador Peace	6,000	4,500	3,976
Third Border Initiative	2,500	9,000	3,976

Third Border initiative REIMB	<u>500</u>	<u>00</u>	<u>00</u>
Sub-Total	\$84,120	\$86,000	\$84,498

AFRICA

Angola	\$3,825	\$3,500	\$3,479
Burundi	1,150	3,500	3,479
Democratic Republic of Congo	2,800	4,250	4,971
Djibouti SUP	25,000		
Ethiopia	1,075	5,000	4,971
Kenya	2,950	8,000	7,953
Liberia	4,420	00	00
Nigeria	1,900	5,000	4,971
Sierra Leone	11,910	5,000	4,971
South Africa	80	2,000	1,988
Sudan	7,000	15,000	9,941
Zimbabwe	4,050	4,000	2,982
Africa Regional Fund	14,390	14,000	11,929
Africa Regional Fund REIMB	15,740	00	00
Countries in Transition	1,750	00	00
East Africa Counter-Terrorism REIMB	2,700	00	00
Kimberley Process	00	00	1,491
Kimberley Process REIMB	2,000	00	00
NED Democracy Programs - AF	00	00	2,982
Regional Organizations	1,700	3,000	2,982
Safe Skies	<u>5,000</u>	<u>5,000</u>	<u>4,971</u>
Sub-Total	\$109,440	\$77,250	\$74,061

EAST ASIA AND THE PACIFIC

Burma	\$6,954	\$6,500	\$12,923
Cambodia	15,000	15,000	16,900
East Timor - Leste	24,838	13,500	22,367
Indonesia	59,610	60,000	49,705
Mongolia	10,000	10,000	9,941
Philippines	15,000	20,000	17,645
Philippines SUP	30,000		
ASEAN Regional Democracy Programs (China, Hong Kong, Tibet)	00	2,500	994
EAP Regional HIV/AIDS REIMB	5,961	00	00
Environmental Programs	1,720	00	00
NED Democracy Programs - EAP	00	00	1,740
Regional Democracy	00	00	2,982
	1,000	4,000	00

Regional Security Fund	200	250	00
Regional Women's Issues	1,000	3,000	1,988
South Pacific Fisheries	17,829	18,000	17,894
South Pacific Fisheries REIMB	171	00	00
Tibet	<u>00</u>	<u>00</u>	<u>3,976</u>
Sub-Total	\$189,283	\$152,750	\$159,055

SOUTH ASIA

Afghanistan	\$49,500	\$150,000	\$74,558
Afghanistan REIMB	175	00	00
Afghanistan SUP	167,000		
Bangladesh	4,000	6,000	4,971
India	10,500	20,000	14,912
Nepal	4,000	6,000	4,971
Pakistan	188,000	200,000	00
Sri Lanka	3,950	14,000	11,929
South Asia Regional Funds	<u>1,900</u>	<u>2,000</u>	<u>1,988</u>
Sub-Total	\$429,025	\$398,000	\$113,329

GLOBAL

Conflict Resolution			
Programs REIMB	\$1,494	\$00	\$00
Human Rights and			
Democracy Funds	31,448	17,000	34,296
Lockerbie (Pan Am 103) REIMB	8,000	00	00
Muslim Outreach SUP	10,000		
Muslim Secondary Exchange			
Program REIMB	3,000	00	00
Oceans, Environmental, and			
Science Initiative	1,500	2,000	3,976
Oceans, Environmental, and			
Science Initiative REIMB	500	00	00
Partnership to Eliminate			
Sweatshops	2,000	2,000	1,988
Reconciliation Programs	00	00	7,953
Security and Sustainability			
Programs	00	00	2,982
Wheelchairs	<u>00</u>	<u>00</u>	<u>4,971</u>
Sub-Total	\$57,942	\$21,000	\$56,166

Total for Allocation	\$4,802,082	\$2,535,000	\$2,138,309
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Rescission	<u>\$14,918</u>		<u>\$12,691</u>
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Total Appropriation	\$4,817,000	\$2,535,000	\$2,151,000
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Title III, Military Assistance, Peacekeeping Operations

- Initially appropriated \$74,900,000 as PKO grant assistance for necessary expenses to carry out the provisions of Section 551, FAA, to be obligated or expended except as provided through regular notification procedures of the congressional appropriations committees. The mandated 0.59 percent rescission amounted to \$442,000 reducing the total program for the year to \$74,458,000. This new total is in addition to the FY2004 emergency supplemental of \$50,000,000 to support the global war on terrorism (GWOT) appropriated earlier by P.L. 108-106.

- As noted in Table Nine, the PKO funding originally requested by the Administration was for \$94,000,000. The initial appropriation of \$74,900,000 was lower than the initial proposals by both the House and the Senate.

Table Nine

FY2004 Peacekeeping Operations (P.L. 108-199)

<u>Administration</u>	<u>House</u>	<u>Senate</u>	<u>Initial Appropriation</u>
\$94,000,000	\$85,000,000	\$84,900,000	\$74,900,000

Note: The initial appropriation does not include the rescission of \$442,000.

- The conference report indicated that every program in the account was fully funded as request by the Administration. The only exception was the additional financial support requested for the **Afghan National Army**. While recognizing the importance of this funding, the managers believed the earlier enacted FY2004 emergency supplemental for \$50,000,000 was enough to fulfill the requirement.

- Table Ten provides the FY2004 PKO allocations which were notified to Congress on 5 March 2004. The table also includes the final funding levels allocated in FY2003 and the \$94,900,000 in funding requested by the Administration for FY2004.

- The FY2003 final PKO total does include the additional \$100,000,000 appropriated by the FY2003 emergency supplemental, P.L. 108-11.

- The FY2004 initial allocation for PKO does not include the additional \$50,000,000 appropriated by the emergency supplemental, P.L. 108-106.

Table Ten

**Peacekeeping Operations (PKO)
FY2004 Funding Allocations
(in thousands)**

<u>Country/Program by Geographical Region</u>	<u>FY2003 PKO Allocation</u>	<u>FY2004 Budget Request</u>	<u>FY2004 PKO Allocation</u>
AFRICA			
Africa Regional Peacekeeping	\$59,134	\$9,000	\$8,947
Africa Regional SUP	11,000		
Africa Contingency Operations and Assistance	<u>8,000</u>	<u>15,000</u>	<u>14,912</u>
Sub-Total	\$78,134	\$24,000	\$23,859
EAST ASIA AND THE PACIFIC			
East Timor	<u>\$3,250</u>	<u>\$2,000</u>	<u>\$1,988</u>
Sub-Total	\$3,250	\$2,000	\$1,988
EUROPE AND EURASIA			
Georgia	\$00	\$00	\$3,000
OSCE Bosnia	9,900	11,800	11,500
OSCE Croatia	00	900	1,800
OSCE Kosovo	00	9,500	7,000
OSCE Regional - Europe	<u>7,858</u>	<u>9,300</u>	<u>8,014</u>
Sub-Total	\$17,758	\$31,500	\$31,314
NEAR EAST			
Iraq SUP	\$50,000		
Multinational Force and Observers (MFO)	<u>16,212</u>	<u>\$16,400</u>	<u>\$16,303</u>
Sub-Total	\$66,212	\$16,400	\$16,303
SOUTH ASIA			
Afghanistan	\$9,898	\$20,000	\$00
Sri Lanka	<u>00</u>	<u>1,000</u>	<u>994</u>
Sub-Total	\$9,898	\$21,000	\$994

GLOBAL

Other Programs SUP	<u>\$39,000</u>		
Sub-Total	\$39,000	\$00	\$00
Total for Allocation	\$214,252	\$94,900	\$74,458
Rescission	<u>\$748</u>		<u>\$442</u>
Total Appropriation	\$215,000	\$94,900	\$74,900

Note: OSCE is Organization for Security and Cooperation in Europe.

Other P.L.108-199 Assistance Programs for FY2004

- The following includes FY2004 appropriations for other assistance programs funded by P.L. 108-199. The total funding for each program does not include the directed 0.59 percent rescission. Additionally, the specific allocations for each program within the account headings are not included. These figures from the 5 March 2004 allocation report to Congress were not available to the author at press time.

Title II, Bilateral Economic Assistance

Development Assistance

- \$1,385,000,000 for development assistance of which \$150,000,000 may remain available until 30 September 2005.

International Disaster and Famine Assistance

- \$235,500,000 for international disaster relief, rehabilitation, and reconstruction assistance to remain available until expended. An additional \$20,000,000 to remain available until expended for necessary expense for assistance for famine prevention and relief including for mitigation of the effects of famine.

Transition Initiatives

- \$55,000,000 to remain available until expended to support transition to democracy and to long-term development of countries in crisis.

Capital Investment Fund

- \$82,200,000 to remain available until expended for USAID overseas construction and related costs, and for the procurement and enhancement of information technology and related capital investment pursuant to Section 667, FAA.

- The Administrator of USAID shall assess fair and reasonable rental payments for the use of space by employees of other U.S. government agencies in buildings constructed using funds appropriated under this heading and such rental payments shall be deposited into this account as an offsetting collection.

- Additionally, the assignment of U.S. government employees or contractors to space in buildings constructed using funds appropriated under this heading shall be subject to the concurrence of the Administrator of USAID.

Global HIV/AIDS Initiative

- \$491,000,000 to remain available until expended for the prevention, treatment, and control of, and research on HIV/AIDS. \$15,000,000 of this funding may be apportioned directly to the Peace Corps for necessary expense to carry out activities to combat HIV/AIDS, tuberculosis, and malaria.

Assistance for Eastern Europe and the Baltic States

- \$445,000,000 to remain available until 30 September 2005 to carry out the provisions of the *Support for East European Democracy (SEED) Act of 1989*, P.L. 101-179, 28 September 1989.

- \$2,000,000 of this funding made available for **Bulgaria** should be available to enhance safety at nuclear power plants.

- Of the funds made available under this heading, and the headings of Assistance for the Independent States of the former Soviet Union, Foreign Military Financing Program, and Economic Support Fund; not less than \$53,000,000 shall be available for programs for the prevention, treatment, and control of, and research on HIV/AIDS, tuberculosis, and malaria.

- Of the funds under this heading made available for **Montenegro**, not less than \$12,000,000 shall be made available for economic development and environmental programs in the coastal region.

- Up to \$1,000,000 should be made available for a program to promote greater understanding and interaction among youth in **Albania, Kosovo, Montenegro, and Macedonia**.

Assistance for the Independent States of the former Soviet Union

- \$587,000,000 to remain available until 30 September 2005 to carry out the provisions of the *Freedom for Russia and Emerging Eurasian Democracies and Open Markets (FREEDOM) Support Act (FSA) of 1992*, P.L. 102-511, 24 October 1992.

- \$1,500,000 should be available only to meet the health and other assistance needs of victims of trafficking in persons.

- \$17,500,000 shall be made available solely for assistance for the **Russian Far East**, of which not less than \$3,000,000 shall be made available for technical assistance through an American university in a region which received nonstop air service to and from the Russian Far East as of 1 July 1992 to facilitate the development of U.S. business opportunities, free markets, and democratic institutions in the Russian Far East. The latter earmark provision is for the program authorized by Section 307, *FREEDOM Support Act*.

- Up to \$500,000 should be made available to support democracy building programs in Russia through the Sakharov Archives.

- Of the funds made available for assistance for the **Ukraine**, not less than \$19,000,000 should be made available for nuclear reactor safety initiatives and not less than \$1,500,000 shall be made available for coal mine safety programs.

- Not less than \$94,000,000 shall be made available for assistance for **Russia**.

- Not less than \$75,000,000 shall be made available for assistance for **Armenia**.

- Not less than \$57,000,000 should be made available, in addition to other funds otherwise available for such purposes, for assistance for child survival, environmental and reproductive health, and to combat HIV/AIDS, tuberculosis and other infectious diseases, and for related activities.

Title II, Independent Agencies

Inter-American Foundation

- \$16,334,000 to remain available until 30 September 2005 for functions the Foundation in accordance with Section 401, FAA.

African Development Foundation

- \$18,689,000 to remain available until 30 September 2005 for the Foundation to carry out Title V, *International Security and Development Cooperation Act of 1980*, P.L. 96-533, 16 December 1980.

Peace Corps

- \$310,000,000 to remain available until 30 September 2005 to carry out the provisions of the *Peace Corps Act*, Title VI, P.L. 96-533, 16 December 1980.

Millennium Challenge Corporation

- \$650,000,000 to remain available until expended for expenses for the Millennium Challenge Account of which not more than \$50,000,000 may be available for administrative expenses.

Title III, Department of State

International Narcotics Control and Law Enforcement

- \$241,700,000 to remain available until 30 September 2006 to carry out Section 481, FAA.

- \$12,000,000 should be made available for anti-trafficking in persons programs, including trafficking prevention, protection and assistance for victims, and prosecution of traffickers.

- \$7,105,000 should be made available for the International Law Enforcement Academy in Roswell, New Mexico, of which \$2,105,000 should be made available for construction and completion of a new facility.

- Not more than \$26,117,000 may be available for administrative expenses.

- This is in addition to the FY2004 emergency supplemental appropriation of \$170,000,000 by P.L. 108-106 to remain available until 31 December 2004 for accelerated assistance for **Afghanistan**.

Andean Counterdrug Initiative

- \$731,000,000 to remain available until 30 September 2006 to carry out Section 481, FAA, to support counterdrug activities in the Andean region of South America.

- During FY2004, funds made available to the Department of State for assistance to the government of **Colombia** shall be available to support a unified campaign against narcotics trafficking, against activities by organizations designated as terrorist organizations such as the Revolutionary Armed Forces of Colombia (FARC), the National Liberation Army (ELN), and the United Self-Defense Forces of Colombia (AUC), and to take actions to protect human health and welfare in emergency circumstances, including undertaking rescue operations.

- This authority shall cease to be effective if the Secretary of State has credible evidence that the Colombian Armed Forces are not conducting vigorous operations to restore government authority and respect for human rights in areas under the effective control of paramilitary and guerrilla organizations.

- The President shall ensure that if any helicopter procured with funds under this heading is used to aid or abet the operations of any illegal self-defense group or illegal security cooperative, it shall be immediately returned to the U.S.

- Not less than \$257,000,000 shall be made available for alternative development/institution building of which \$229,200,000 shall be apportioned directly to USAID.

- Not less than \$25,000,000 should be made available for justice and rule of law programs in Colombia.

- In addition to this funding, not less than \$13,000,000 should be made available for organizations and programs to protect human rights.

- Not less than \$2,500,000 should be made available for continued training, equipment, and other assistance for the Colombian National Park Service.

- Not more than \$16,285,000 may be available for administrative expenses of the Department of State. And not more than \$4,500,000 may be available, in addition to amounts otherwise available for such purpose, for administrative expenses of the USAID.

- No U.S. armed forces personnel or U.S. civilian contractor employed by the U.S. will participate in any combat operation in connection with assistance made available to Colombia by this Act.

Migration and Refugee Assistance

- \$760,197,000 to remain available until expended for expense, not otherwise provided for, necessary to enable the Secretary of State to provide a contribution to the International Committee of the Red Cross, assistance to refugees including contributions to the International Organization for Migration and the United Nations High Commissioner for Refugees, and other related activities to meet refugee and migration needs.

- Not more than \$21,000,000 may be available for administrative expenses,

- Not less than \$50,000,000 shall be made available for refugees from the former Soviet Union and Eastern Europe and other refugees resettling in **Israel**.

- These funds may be made available for a headquarters contribution to the International Committee of the Red Cross only if the Secretary of State determines and reports to the congressional appropriations committees that the Magen David Adom Society of Israel is not being denied participation in the activities of the International Red Cross and Red Crescent Movement.

U.S. Emergency Refugee and Migration Assistance Fund

- \$30,000,000 to remain available until expended to carry out the provisions of Section 2(c) of the *Migration and Refugee Act of 1962*, P.L. 87-510, 28 June 1962.

Nonproliferation, Anti-Terrorism, Demining and Related Programs

- \$353,500,000 to carry out provisions of Part, II, Chapters 8 and 9, of the FAA, Section 504 of the FREEDOM Support Act, Section 23 of the AECA, or the FAA, for demining activities, the clearance of unexploded ordnance, the destruction of small arms, and related activities, notwithstanding any other provision of law, including activities implemented through nongovernmental and international organizations, and Section 301 of the FAA for a voluntary contribution to the International Atomic Energy Agency (IAEA) and for the U.S. contribution to the Comprehensive Nuclear Test Ban Treaty Preparatory Commission.

- Not less than \$30,000,000 to remain available until expended for the Nonproliferation and Disarmament Fund to promote bilateral and multilateral activities relating to nonproliferation and disarmament.

- Of the funds made available to demining and related activities, not to exceed \$690,000, in addition to funds otherwise available for such purposes, may be used for administrative expenses related to the operation and management of the demining program.

- The Secretary of State is authorized to provide funding not to exceed \$250,000, from this heading in this Act and previous such Acts, for public-private partnerships for mine action by grant, cooperative agreement, or contract.

- This is in addition to the FY2004 emergency supplemental of \$35,000,000 for accelerated assistance for **Afghanistan** by P.L. 108-106.

- Funds appropriated under this heading shall be made available for programs and countries in the amounts included in the conference report for this Act. Refer to Table Eleven for these congressional conference-directed budget authorities.

Table Eleven

Nonproliferation, Anti-Terrorism, Demining and Related (NADR) Programs FY2004 Funding (in thousands)

<u>Program</u>	<u>Budget Authority</u>
Nonproliferation and Disarmament Fund	\$30,000

Export Control and Border Security Assistance	36,000
Science Centers	50,500
International Atomic Energy Agency - Voluntary Contribution	53,000
CTBT/International Monitoring System	19,000
Anti-Terrorism Assistance	97,000
Terrorist Interdiction Program	5,000
Humanitarian Demining	50,000
International Trust Fund for Demining	10,000
Small Arms/Light Weapons Destruction	<u>3,000</u>
Total Budget Authority	\$353,500

Note: This does not include the rescission of \$2,086,000.

Title V, General Provisions

Limitation on Representational Allowances (Section 505)

- Of the FMFP funding appropriated for general costs of administering military assistance and sales by this Act, not more than \$2,000 shall be available for entertainment allowances and not more than \$125,000 shall be available for representational allowances.
- Of the IMET funding made available by this Act, not more than \$50,000 shall be available for entertainment allowances.

Prohibition on Taxation of U.S. Assistance (Section 506)

- None of the funds appropriated by this Act may be made available to provide assistance to a foreign country under a new bilateral agreement governing the terms and conditions under which such assistance is to be provided unless such agreement includes a provision stating that U.S. assistance shall be exempt from taxation, or reimbursed, by the foreign government. The Secretary of State shall expeditiously seek to negotiate amendments to existing bilateral agreements, as necessary, to conform to this requirement.
- An amount equivalent to 200 percent of the total taxes assessed during FY2004 by a foreign government or entity against commodities financed under U.S. assistance programs for which funds are appropriated by this Act, either directly or through grantees, contractors, and subcontractors, as of the date of enactment of this Act, shall be withheld from obligation from funds appropriated for assistance for FY2005 and allocated for the central government of that country and for the West Bank and Gaza Program to the extent that the Secretary of State certifies and reports in writing to the congressional committees on appropriations that such taxes have not been reimbursed to the U.S. government.

- Foreign taxes of a “de minimis” nature [so insignificant or minimal that a court may overlook it in deciding an issue or case] are not subject to these reimbursement provisions.

- The provisions of this Section shall not apply to any country or entity the Secretary of State determines does not assess taxes on U.S. assistance or has an effective arrangement that is providing substantial reimbursement of such taxes, or U.S. foreign policy interests outweigh the policy of this Section.

- The Secretary of State shall issue rules, regulations, or policy guidance, as appropriate, to implement the prohibition against the taxation of U.S. assistance.

- The terms “taxes” and “taxation” refer to value added taxes and customs duties imposed on commodities financed with U.S. assistance for programs for which funds are appropriated by this Act.

Prohibition against Direct Funding for Certain Countries (Section 507)

- None of the funds appropriated or otherwise made available by this Act shall be obligated or expended to finance directly any assistance or reparations to **Cuba, Libya, North Korea, Iran, or Syria**. This shall include direct loans, credits, insurance, and guarantees of the Export-Import Bank or its agents.

- **Iraq and Sudan** have been removed of this prohibition.

Military Coups (Section 508)

- None of the funds appropriated or otherwise made available by this Act shall be obligated or expended to finance directly any assistance to the government of any country whose duly elected head of government is deposed by decree or military coup.

- Pursuant to Section 1(b) of the *Pakistan Waiver Act*, P.L. 107-57, 27 October 2001, as amended by Section 2213 (1) of the FY2004 emergency supplemental appropriations act, P.L. 108-106; Presidential Determination 2004-26 of 24 March 2004 waives this prohibition for furnishing assistance to **Pakistan** during FY2004

- Assistance may be resumed to such government if the President determines and certifies to the congressional committees on appropriations that subsequent to the termination of assistance a democratically elected government has taken office.

- The provisions of this Section shall not apply to assistance to promote democratic elections or public participation in democratic processes.

- Any funding made available pursuant to the provisos of this Section shall be subject to the regular notification procedures of the congressional committees on appropriations.

Commercial Leasing of Defense Articles (Section 510)

- As with the last several years, notwithstanding any other provision of law, and subject to the regular notification procedures of the congressional committees on appropriations, FMFP may be used to provide financing to Israel, Egypt, NATO, and major non-NATO allies for the procurement by leasing, including leasing with an option to purchase, of defense articles from U.S. commercial suppliers. This is not to include major defense Equipment (MDE), other than helicopters and other types of aircraft having possible civilian application, if the President determines that there are compelling foreign policy or national security reasons for those defense articles being provided by commercial lease rather than by government-to-government sale (FMS).

Availability of Funds (Section 511)

- No funding appropriated in this Act shall remain available for obligation after this fiscal year unless expressly so provided in this Act.
- However, funds appropriated for the purposes, inter alia, *International Narcotics Control, Support for the Economic and Democratic Development of the Independent States of the former Soviet Union, Support for the Economic and Political Independence of the Countries of the South Caucasus and Central Asia, Economic Support Fund (ESF), Foreign Military Financing Program (FMFP), and Assistance for Eastern Europe and the Baltic States*, shall remain available for an additional four years from the date of which the availability of such funds would otherwise have expired, if such funds are initially obligated before the expiration of their respective periods of availability.
- Notwithstanding any other provision of this Act, any funds made available for the purposes of ESF which are allocated or obligated for cash disbursements in order to address balance of payments or economic policy reform objectives, shall remain available until expended.

Limitation on Assistance to Countries in Default (Section 512)

- No part of any appropriation in this Act shall be used to furnish assistance to a government which is in default during a period in excess of one calendar year in payment to the U.S. of principal or interest on any loan made to that pursuant to a program for which funds are appropriated under this Act unless the President determines, following consultations with the Committees on Appropriations, that assistance to such country is in the national interest of the U.S.
- Also referred to as the **Brooke-Alexander Amendment**.

Notification Requirements (Section 515)

- For the purposes of providing the Executive Branch with the Necessary administrative flexibility, none of the funds made available under this Act for, inter alia, *International Narcotics Control and Law Enforcement, Andean Counterdrug Initiative, Assistance for Eastern Europe and the Baltic States, Assistance for the Independent States of the former Soviet Union, Economic Support Fund, Peacekeeping Operations, Nonproliferation, Anti-terrorism, Demining, and Related Programs, Foreign Military Financing Program, and International Military Education and Training* shall be available for obligation for activities, programs, projects, type of material assistance, countries, or other operations not justified or in excess of the amount justified to the Committees on Appropriations for obligation under any of these specific headings unless the Committees on Appropriations are previously notified fifteen days in advance.

- The President shall not enter into any commitment of FMFP funds for the provision of major defense equipment (MDE), other than conventional ammunition, or other major defense items defined to be aircraft, ships, missiles, or combat vehicles, not previously justified to Congress, or twenty percent in excess of the quantities justified to Congress unless the congressional committees on appropriations are notified fifteen days in advance of such commitment.

Special Notification Requirements (Section 520)

- None of the funds appropriated by this Act shall be obligated or expended for **Liberia, Serbia, Sudan, Zimbabwe, Pakistan, Cambodia, or the Democratic Republic of the Congo** except as provided through the regular notifications procedures of the congressional committees on appropriations.

- This same provision in the FY2003 legislation also applied to the same countries except **Colombia** is no longer on this restriction. However, **Cambodia** has been added to the list.

Afghanistan (Section 523)

- Of the funds appropriated by this Act, \$405,000,000 shall be made available for humanitarian and reconstruction assistance for **Afghanistan**.

- Not less than \$75,000,000 of the funds available pursuant to this Section should be from funds appropriation under *Economic Support Fund*.

- Not less than \$2,000,000 of the funds available pursuant to this Section should be made available for reforestation activities. This funding should be matched to the maximum extent possible with contributions from American and Afghan businesses.

- Not less than \$2,000,000 of the funds available pursuant to this Section should be made available for the Afghan Judicial Reform Commission.

- Not less than \$5,000,000 of the funds available pursuant to this Section should be made available to support programs to address the needs of Afghan women through training and equipment to improve the capacity of women-led Afghan nongovernmental organizations and to support the activities of such organizations.

- Not less than \$2,000,000 should be made available for assistance for Afghan communities and families that suffer losses as the result of the military operations.

Notification of Excess Defense Equipment (Section 524)

- Prior to providing excess DoD articles (EDA) in accordance with Section 516(a), FAA, the DoD shall notify the congressional committees on appropriations to the same extent and under the same conditions as are other committees pursuant to Section 516(f), FAA.

- Before issuing a letter of offer (an FMS LOA) to sell EDA under the AECA, DoD shall notify the congressional committees on appropriations in accordance with the regular notification procedures of such committees if the defense articles are significant military equipment (SME) or valued (in terms of original acquisition cost) at \$7,000,000 or more, or if the notification is required elsewhere in this Act for the use of appropriated funds for specific countries that would receive such EDA. The notification is to include the original acquisition cost of such defense articles.

Democracy Programs (Section 526)

- Section 526(a):

- Not less than \$13,500,000 of FY2004 ESF funding shall be made available for assistance for activities to support democracy, human rights, and the rule of law in the **People's Republic of China and Hong Kong**.

- FY2004 ESF funding should be made available for assistance for **Taiwan** for the purposes of furthering political and legal reforms.

- Such funds shall only be made available to the extent they are matched from sources other than the U.S. government.

- Any funds made available pursuant to this subSection shall be subject to regular notification procedures of the congressional committees on appropriations.

- Additionally, in Section 526(b):

- Not less than \$11,500,000 of FY2004 ESF funding shall be made available for programs and activities to foster democracy, human rights, civic education, women's development, press freedoms, and the rule of law in countries with a significant Muslim

population, and where such programs and activities would be important to U.S. efforts to respond to, deter, or prevent acts of international terrorism.

- Funds made available by the authority of this subSection should support new initiatives or bolster ongoing programs and activities in those countries.

- Not less than \$3,000,000 should be made available for programs and activities that provide professional training for journalists.

- Of the funds appropriated under this heading, in addition to other amounts made available for **Egypt** under this Act, funds shall be made available to support civil society organizations working for democracy in Egypt.

- Notwithstanding any other provision of law, not to exceed \$1,500,000 of such funds may be used to making grants to educational, humanitarian and nongovernmental organizations and individuals inside **Iran** to support the advancement of democracy and human rights in Iran.

- In addition, of the funds appropriated by this Act under the heading *Economic Support Fund* not less than \$3,000,000 shall be made available for programs and activities of the National Endowment for Democracy to foster democracy, human rights, civic education, women's development, press freedom, and the rule of law in countries of the **sub-Saharan Africa**.

- Likewise, any funds made available pursuant to this subSection shall be subject to the regular notification procedures of the congressional committees on appropriations.

- Section 526(c):

- Not less than \$10,500,000 of the funding in subSection 526(a) and not less than \$7,000,000 of the funding in subSection 526(b) shall be made available for the Human Rights and Democracy Fund of the State Department's Bureau of Democracy, Human Rights and Labor to support the activities in subSections 526(a) and (b).

- The total amount of funds made available by this Act under *Economic Support Fund* for activities of the Bureau of Democracy, Human Rights and Labor, Department of State, including funds available in this Section shall not be less than \$34,500,000.

- Section 526(d):

- Not less than \$3,000,000 of the funding in subSection 526(a) and not less than \$3,500,000 of the funding in subSection 526(b) shall be made available for the National Endowment for Democracy to support the activities in subSections 526(a) and (b).

- The Secretary of State shall provide a report to the congressional committees on appropriations within 120 days of the enactment of this Act on the status of the allocation, obligation, and expenditures of such funds.

Prohibition on Bilateral Assistance to Terrorist Countries (Section 527)

- Funds appropriated for bilateral assistance under any heading in this Act and funds appropriated under any such heading in laws previously enacted shall not be made available to any country which the President determines grants sanctuary from prosecution to any individual or group which has committed an act of international terrorism or otherwise supports international terrorism.

- This prohibition may be waived by the President if he determines that national security or humanitarian reasons justify such a waiver. The waiver shall be published in the *Federal Register*. At least fifteen days before the waiver takes effect, the President shall notify the congressional committees on appropriations of the waiver to include the justification.

Burma (Section 531)

- The Secretary of the Treasury shall instruct the U.S. executive director to each appropriate international financial institution in which the U.S. participates, to oppose and vote against the extension by such institution of any loan or financial or technical assistance or any other utilization of funds of the respective bank to and for **Burma**.

- Not less than \$13,000,000 in ESF funding shall be made available to support democracy activities in Burma, along the Burma-Thailand border, for activities of Burmese student groups and other organizations located outside Burma, and for the purpose of supporting the provision of humanitarian assistance to displaced Burmese along Burma's border.

- \$5,000,000 shall be allocated to USAID for humanitarian assistance for displaced Burmese and host communities in Thailand.

- The sense of Congress is that the U.N. Security Council should debate and consider sanctions against Burma as a result of the threat to regional stability and peace posed by the repressive and illegitimate rule of the State Peace and Development Council.

Ceilings and Earmarks (Section 539)

- Ceilings and earmarks contained in this Act shall not be applicable to funds or authorities appropriated or otherwise made available by any subsequent act unless such act specifically so directs. Earmarks or minimum funding requirements contained in any other Act shall not be applicable to funds appropriated by this Act.

Prohibition on Assistance to Foreign Governments that Export Lethal Military Equipment to Countries Supporting International Terrorism (Section 543)

- None of the funds appropriated or otherwise made available by this Act may be available to any foreign government which provides lethal military equipment to a country the government of which the Secretary of State has determined is a terrorist government for the purposes of Section 6(j) of the *Export Administration Act (EAA)*.

- This prohibition shall terminate twelve (12) months after that government ceases to provide such military equipment. This Section applies with respect to lethal equipment provided under a contract entered into after 1 October 1997.

- The prohibition may be waived if the President determines that such assistance is important to the U.S. national interest. When exercised, the President shall submit to the appropriate congressional committees a report with respect to the furnishing of such assistance detailing the assistance to be provided, including the estimated dollar amount of the assistance, and an explanation of how the assistance furthers U.S. national interests.

War Crimes Tribunals Drawdown (Section 546)

- As in prior years, authorizes the drawdown of commodities and services of up to \$30,000,000 for the **U.N. War Crimes Tribunal** with regard to the former Yugoslavia or such other tribunals or commissions as the U.N. Security Council may establish or authorize to deal with such violations.

- Any funds made available for such tribunals other than **Yugoslavia, Rwanda**, or, for the first time, the Special Court for **Sierra Leone** shall be made available subject to the regular notification procedures of the Committees on Appropriations.

Landmines (Section 547)

- As in prior years, authorizes **demining equipment** made available to USAID and the Department of State and used in support of the clearance of landmines and unexploded ordnance for humanitarian purposes to be disposed of on a grant basis in foreign countries, subject to such terms and conditions as the President may prescribe.

Prohibition of Payment of Certain Expenses (Section 549)

- As in prior years, none of the funding appropriated or otherwise made available by this Act under the headings, inter alia, *International Military Education and Training (IMET)* or *Foreign Military Financing Program (FMFP)* **Informational Program (IP) activities** or under *Economic Support Fund (ESF)* may be obligated or expended to pay for:

- Alcoholic beverages or

- Entertainment expenses for activities that are substantially of a recreational character, including but not limited to entrance fees at sporting events, theatrical and musical productions, and amusement parks.

Haiti (Section 551)

- The Government of **Haiti** shall be eligible to purchase defense articles and services under the AECA for the Coast Guard.

Limitation on Assistance to Security Forces (Section 556)

- As in previous years, none of the funding made available by this Act may be provided to any **security forces unit** of a foreign country if the Secretary of State has credible evidence that such unit has committed gross violations of human rights, unless the Secretary determines and reports to the congressional committees on appropriations that the country is taking effective measures to bring the responsible members of that unit to justice.

- Nothing in this Section shall be construed to withhold funds made available by this Act from any security forces unit of that country not credibly alleged to be involved in gross violations of human rights.

- In the event funds are withheld from any unit pursuant to this Section, the Secretary shall promptly inform the affected government of that country of the basis for this action and shall, to the maximum extent practicable, assist the government in taking effective measures to bring the responsible members of that unit to justice.

- Similar prohibition language is also included in Section 8077, *Defense Department Appropriations Act, 2004*, P.L. 108-87, 30 September 2003.

- This Section is sometimes referred to as the “**Leahy Amendment.**”

- The Senate Appropriations Committee report, S.Rpt. 108-106, commended the Department of State for issuing new guidance on the implementation of the “Leahy Amendment.” It was noted that the guidance requires the U.s. Embassy personnel to be more proactive when investigating and reporting on allegations of human rights violations by foreign country security forces. The committee also requests State Department to inform Congress if additional resources are needed to effectively implement this and other directives in the message. The conference report did not address the subject.

Foreign Military Training Report (Section 554)

- This annual report from the Secretaries of State and Defense shall be submitted in accordance with Section 656, FAA, which requires that report not later than 31 January

each year. Unless a country (or countries) is requested for inclusion by one of the appropriations committees in writing at least ninety days in advance, the report is not required to include training for NATO countries, Japan, Australia, or New Zealand.

Regional Programs for East Asia and the Pacific (Section 556)

- ESF funding requested for “Regional Democracy” assistance for **East Asia and the Pacific** shall be made available for the Human Rights and Democracy Fund of the Bureau for Democracy, Human Rights, and Labor, Department of State.

Zimbabwe (Section 557)

- The Secretary of the Treasury shall instruct the U.S. executive director to each international financial institution to vote against any extension by the respective institution of any loans, to the government of **Zimbabwe**, except to meet basic human needs or to promote democracy, unless the Secretary of State determines and certifies to the congressional committees on appropriations that the rule of law has been restored in Zimbabwe, including respect for ownership and title to property, freedom of speech, and association.

Tibet (Section 558)

- The Secretary of the Treasury should instruct the U.S. executive director to each international financial institution to use the voice and vote of the U.S. to support projects in **Tibet** if such projects do not provide incentives for the migration and settlement of non-Tibetans into Tibet or facilitate the transfer of ownership of Tibetan land and natural resources to non-Tibetans; are based on a thorough needs-assessment; foster self-sufficiency of the Tibetan people and respect Tibetan culture and traditions; and are subject to effective monitoring.

- Not less than \$4,000,000 of ESF funding shall be made available to nongovernmental organizations to support activities which preserve cultural traditions and promote sustainable development and environmental conservation in Tibetan communities in the Tibetan Autonomous Region and in other Tibetan communities in China.

Authorization Requirement (Section 559)

- Funds appropriated by this Act may be obligated and expended notwithstanding Section 10, P.L. 91-672 and Section 15 of the *State Department Basic Authorities Act of 1956*.

Nigeria (Section 560)

- No FY2004 IMET and FMFP funding may be made available to **Nigeria** until the President certifies to the congressional committees on appropriations that the Nigerian

Minister of Defense, the Chief of the Army Staff, and the Minister of State for Defense/Army are suspending from the armed forces those members, of whatever rank, against whom there is credible evidence of gross violations of human rights in Benue State in October 2001 and the government of Nigeria and the Nigerian Armed Forces are taking effective measures to bring such individuals to justice.

- The President may waive such prohibitions if he determines that doing so is in the U.S. national security interest. Prior to such a waiver, the President shall submit a report to the congressional committees on appropriations describing the involvement of the Nigerian Armed Forces in the Benue State incident, the measures that are being taken to bring the individuals to justice, and whether any Nigerian Armed Forces units involved with the incident are receiving U.S. assistance.

Cambodia (Section 561)

- The Secretary of the Treasury should instruct the U.S. executive directors of the international financial institutions to use the voice and vote of the U.S. to oppose loans to the **Central Government of Cambodia**, except loans to meet basic human needs.

- The Central Government of Cambodia may not receive any funding appropriated by this Act.

- This prohibition shall not apply to assistance for basic education, reproductive and maternal and child health, cultural and historic preservation, programs for the prevention, treatment, and control of, and research on HIV/AIDS, tuberculosis, malaria, polio, and other infectious diseases, programs to combat human trafficking that are provided through nongovernmental organizations, and for the Ministry of Women and Veterans Affairs to combat human trafficking.

- Up to \$4,000,000 in FY2004 ESF funding may be available for activities to support democracy, including assistance for democratic political parties.

Colombia (Section 563)

- Notwithstanding any other provision of law, funds appropriated by this Act that are available for assistance for the **Colombian Armed Forces**, may be made available as follows:

- Up to 75 percent of such funds may be obligated prior to a determination and certification (detailed below) by the Secretary of State.

- Up to 12.5 percent of such funds may be obligated only after the Secretary of State certifies and reports to the appropriate congressional committees that:

- The Commander General of the Colombian Armed Forces is suspending from the Armed Forces those members, of whatever rank who, according to the Minister

of Defense or the Procuraduria General de la Nacion, have been credibly alleged to have committed gross violations of human rights, including extra-judicial killings, or to have aided or abetted paramilitary organizations.

- The Colombian Government is prosecuting those members of the Colombian Armed Forces, of whatever rank who, have been credibly alleged to have committed gross violations of human rights, including extra-judicial killings, or to have aided or abetted paramilitary organizations, and is promptly punishing those members of the Colombian Armed found to have committed such violations of human rights or to have aided and abetted paramilitary organizations.

- The Colombian Armed Forces have made substantial progress in cooperating with civilian prosecutors and judicial authorities in such cases to include providing requested information, such as the identity of persons suspended from the Armed Forces and the nature and cause of the suspension, and access to witnesses, relevant military documents, and other requested information.

- The Colombian Armed Forces have made substantial progress in severing links; to include denying access to military intelligence, vehicles, and other equipment or supplies, and ceasing other forms of active or tacit cooperation; at the command, battalion, and brigade levels, with paramilitary organizations especially in regions where these organizations have a significant presence.

- And, the Colombian Armed Forces are dismantling paramilitary leadership and financial networks by arresting commanders and financial backers especially in regions where these networks have a significant presence.

- The balance of the funding may be obligated after 1 July 2004 if the Secretary of State certifies and reports to the appropriate congressional committees after such date that the Colombian Armed Forces are continuing to meet the conditions contained in the above earlier report. This second report is to also include that the Colombian Armed Forces are conducting vigorous operations to restore government authority and respect for human rights in areas under the effective control of paramilitary and guerilla organizations.

- Not later than sixty days after the enactment of this Act and every ninety days thereafter until 30 September 2005, the Secretary of State shall consult with internationally recognized human rights organizations regarding progress in meeting the conditions outlined in the reports.

- “Aided or abetted” is defined to mean providing any support to paramilitary groups, including taking actions which allow, facilitate, or otherwise foster the activities of such groups.

- “Paramilitary groups” is defined to mean illegal self-defense groups and illegal security cooperative.

- This year's report and certification requirements are similar last year and recognize progress is being made.

Central Asia (Section 568)

- Funding appropriated by this Act may be available for assistance for the Government of **Uzbekistan** only if the Secretary of State determines and reports to the congressional committees on appropriations that the government of Uzbekistan is making substantial and continuing progress in meeting its commitments under the "Declaration on the Strategic Partnership and Cooperation Framework between the Republic of Uzbekistan and the United States of America," including respect for human rights, establishing a genuine multi-party system, and ensuring free and fair elections, freedom of expression, and the independence of the media.

- Funds appropriated by this Act may be made available for assistance for the government of **Kazakhstan** only if the Secretary of State determines and reports to the congressional committees on appropriations that the government of Kazakhstan has made significant improvements in the protection of human rights during the preceding six months.

- This requirement may be waived by the Secretary if he determines and reports to the congressional committees on appropriations that such a waiver is in the U.S. national security interests.

- Not later than 1 October 2004, the Secretary of State shall submit a report to the congressional committees on appropriations and foreign relations describing the following:

- The defense articles, defense services, and financial assistance provided by the U.S. to the countries of Central Asia during the six-month period ending thirty days prior to submission of each such report.

- The use during such time of defense articles, defense services, and financial assistance provided by the U.S. by units of the armed forces, border guards, or any other security forces of such countries.

- For the purposes of this report, the countries of Central Asia include **Uzbekistan, Kazakhstan, Kyrgyz Republic, Tajikistan, and Turkmenistan.**

War Criminals (Section 570)

- None of the funds appropriated or otherwise made available pursuant to this Act may be made available for assistance, and the Secretary of the Treasury shall instruct the U.S. executive directors to the international financial institutions to vote against any new project involving the extension by such institutions of any financial or technical

assistance to the same aforementioned uncooperative country, entity, or municipality whose competent authorities have failed, as determined by the Secretary of State, to take necessary and significant steps to implement its international legal obligations to apprehend and transfer to the **International Criminal Tribunal for the former Yugoslavia** all persons in their territory who have been indicted by the Tribunal and to otherwise cooperate with the Tribunal.

- This Section shall not apply to humanitarian assistance or assistance for democratization.

- This Section shall apply unless the Secretary of State determines and reports to the appropriate congressional committees that the competent authorities of such country, entity, or municipality are cooperating with the Tribunal including access for investigators to archives and witnesses, the provision of documents, and the surrender and transfer of indictees or assistance in their apprehension, and are acting consistently with the Dayton Accords.

- The Secretary of State may waive the application of this restriction with respect to projects within a country, entity, or municipality upon written determination to the congressional committees on appropriations that such assistance directly supports the implementation of the Dayton Accord.

- Country for this Section means **Bosnia and Herzegovina, Croatia, and Serbia**. Entity refers to the **Federation of Bosnia and Herzegovina, Kosovo, Montenegro and the Republika Srpska**. Municipality means a city, town or other subdivision within the above defined country or entity.

Funding for Serbia (Section 572)

- Funds in this Act made be made available for assistance for **Serbia** after 31 March 2004, if the President has made the determination and certification to the congressional committees on appropriations that the government of the Federal Republic of Yugoslavia (or a successor state) is:

- Cooperating with the International Criminal Tribunal for the former Yugoslavia including access for investigators, the provision of documents, and the surrender and transfer of indictees or assistance in their apprehension including making all practicable efforts to apprehend and transfer Ratko Mladic;

- Taking steps that are consistent with the Dayton Accords to end Serbian financial, political, security and other support which has served to maintain separate Republika Srpska institutions; and

- Taking steps to implement policies which reflect a respect for minority rights and the rule of law, including the release of political prisoners from Serbian jails and prisons.

- After 31 March 2004, the Secretary of the Treasury should instruct the U.S. executive directors to the international financial institutions to support loans and assistance to the government of the Federal Republic of Yugoslavia (or successor state) subject to the conditions in the above presidential determination and certification.

- The Section does not apply to Montenegro, Kosovo, humanitarian assistance or assistance to promote democracy in municipalities.

Community-Based Police Assistance (Section 573)

- FY2004 ESF funding may be used to enhance the effective and accountability of civilian police authority in **Jamaica and El Salvador** through training and technical assistance in human rights, the rule of law, strategic planning, and through assistance to foster civilian police roles that support democratic governance including assistance for programs to prevent conflict and foster improved police relations with the communities they serve.

Philippine Education and Health Infrastructure (Section 578)

- \$600,000 of the ESF funding appropriated for the **Philippines** by the FY2003 emergency supplemental, P.L. 108-11, shall be available only for upgrading education and health infrastructure in the **Sulu Archipelago**.

War Crimes in Africa (Section 589)

- Congress recognizes the role Nigeria played in reaching an agreement with Liberia and also recognizes the important contributions other African nations and supports continued assistance aimed at resolving conflicts that have destabilized West Africa and the Great Lakes region.

- Congress reaffirms its support for the International Criminal Tribunal for **Rwanda** (ICTR) and the Special Court for **Sierra Leone** (SCSL).

- FY2004 funds may be made available for assistance to the central government of a country in which individuals indicted by the ICTR and SCSL are credibly alleged to be living, if the Secretary of State determines and reports to the congressional committees on appropriations that such government is cooperating with the ICTR and SCSL, including the surrender and transfer of indictees in a timely manner.

- This determination does not apply to PKO funding assistance or to Title II assistance of this Act.

- The U.S. shall use its voice and vote in the U.N. Security Council to fully support efforts by the ICTR and SCSL.

- The President may waive any funding prohibition on a country basis if determined to be in the U.S. national security interest.

- Not less than \$5,000,000 of ESF funding appropriated for FY2003 by P.L. 108-7 shall be made available during FY2004 for a contribution to the Special Court of Sierra Leone to be disbursed no later than thirty days after enactment of this Act.

Indonesia (Section 597)

- FY2004 FMFP assistance may be made available for assistance for **Indonesia**. Additionally, export licenses may be issued for the export of lethal defense articles for the Indonesian Armed Forces, only if the president certifies to the appropriate congressional committees that:

- The Indonesia Minister of Defense is suspending from the Armed Forces those members, of whatever rank, who have been credibly alleged to have committed gross violations of human rights, or to have aided or abetted militia groups;

- The Indonesian Government is prosecuting those members of the Indonesian Armed Forces, of whatever rank, who have been credibly alleged to have committed gross violation of human rights, or to have aided or abetted militia groups, and is punishing those members of the Indonesian Armed Forces found to have committed such violations of human rights or to have aided or abetted militia groups;

- The Indonesian Armed Forces are cooperating with civilian prosecutors and judicial authorities in Indonesia and with the joint U.N.-East Timor Serious Crimes Unit (SCU) in such cases including extraditing those indicted by the SCU to East Timor and providing access to witnesses, relevant military documents, and other requested information; and

- The Minister of Defense is making publicly available audits of receipts and expenditures of the Indonesian Armed Forces.

- FY2004 IMET funding assistance may be made available to Indonesia if the Secretary of State determines and reports to the appropriate congressional committees that the Indonesian Government and the Armed Forces are cooperating with the FBI's investigation of the murders of two American citizens and one Indonesian citizen on 31 August 2002 in Timika, Indonesia.

- This restriction shall not apply to Expanded IMET which may include English language training.

Modification on Reporting Requirements (Section 599B)

- Amends Section 3204(f), *Emergency Supplemental Act, 2000*, P.L. 106-246, 13 July 2000, changing the bi-monthly report (every sixty days) for the numbers, locations,

activities, and length of assignment for all temporary and permanent U.S. military and civilians retained as contractors involved in the antinarcotics campaign in **Colombia** to now a quarterly report (every ninety days).

CPA Detailees (Section 599C)

- The Office of Personnel Management shall provide the congressional committees on appropriations by 1 February 2004 a report of the number of Federal employees detailed from each executive agency to the Coalition Provisional Authority in **Iraq** on the date of enactment of this Act.

- The report shall identify by agency the number of non-reimbursable and reimbursable detailees and the report shall be updated and submitted on a quarterly basis until May 2005.

Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004, P.L. 108-106, 6 November 2003

- On 17 September 2003, the Administration requested a supplemental appropriation of \$87,000,000,000 for ongoing operations in Iraq and Afghanistan as well as relief and reconstruction activities in those two countries. The request was divided into two major categories -- \$65,700,000,000 for the Department of Defense and classified activities and \$21,400,000,000 for the Coalition Provisional Authority (CPA) in Iraq and the Department of State.

- In response to the Administration's request, the Senate Appropriations Committee reported out S1689 on 30 September 2003 with S.Rpt. 108-160; and the House Appropriations Committee reported out HR3289 on 9 October 2003 with H.Rpt. 108-312. Both Houses approved their versions of the request on 17 October 2003. The subsequent conference reported out HR3289 on 30 October 2003 with H.Rpt. 108-337. The House and Senate approved HR3289 on 30 October and 3 November 2003, respectively, essentially providing the funding as requested. The President enacted the bill on 6 November 2003 as P.L. 108-106.

- This funding is exempted from the overall 0.59 percent rescission directed by P.L. 108-199.

Title I - National Security

Chapter 1, Department of Defense - Military

Operations and Maintenance, Defense - Wide

- Provides an additional amount of \$4,355,452,000, of which:

- Not to exceed \$15,000,000 may be used for the CINC Initiative Fund account to be used primarily in Iraq and Afghanistan.

- Not to exceed \$1,150,000,000 to remain available until expended may be used for payments to reimburse Pakistan, Jordan and other key cooperating nations for logistical and military support provided, or to be provided, to the U.S. military operations in connection with military action in Iraq and the global war on terrorism (GWOT).

Iraq Freedom Fund

- Provides \$1,988,600,000 for the Iraq Freedom Fund, established earlier by P.L. 108-11, to remain available for transfer until 30 September 2005.

- One of the authorized transfers is the Overseas Humanitarian, Disaster, and Civic Aid account.

Drug Interdiction and Counter-Drug activities, Defense

- Provides an additional \$73,000,000 for the DoD Drug Interdiction and Counter Drug Activities account to be used only for such activities related to **Afghanistan**.

General Provisions

Section 1106 authorizes the Secretary of Defense during FY2004 to use DoD funds to provide supplies, services, transportation, including airlift and sealift, and other logistical support to coalition forces supporting military and stability operations in **Iraq**.

Section 1107 authorizes the Secretary of Defense, with the concurrence of the Secretary of State, to use an amount not to exceed \$150,000,000 of the Operation and Maintenance, Defense-Wide account in this Act to provide assistance only to the **New Iraqi Army and the Afghan National Army** to enhance their capability to combat terrorism and to support U.S. military operations in Iraq and Afghanistan. This assistance may include the provision of equipment, supplies, services, training, and funding.

Section 1110 authorizes during FY2004 the use of funds available from this Act not to exceed \$180,000,000 to fund the Commander's Emergency Response Program established by the Administrator of the Coalition Provisional Authority for the purpose of enabling military commanders in **Iraq** to respond to urgent humanitarian relief and reconstruction requirements within their areas of responsibility by carrying out programs that will immediately assist the Iraqi people, and to establish and fund a similar program to assist the people of **Afghanistan**.

Title II – Iraq and Afghanistan Reconstruction and International Assistance

Chapter 2

Other Bilateral Economic Assistance

Iraq Relief and Reconstruction Fund

- \$18,649,000,000 to remain available until 30 September 2006 for security, relief, rehabilitation and reconstruction in **Iraq** to be allocated as follows:

- \$3,243,000,000 for security and law enforcement;
 - \$1,318,000,000 for justice, public safety infrastructure, and civil society, of which \$100,000,000 shall be for democracy building activities and \$10,000,000 for the U.S. Institute for Peace for activities supporting peace enforcement, peacekeeping, and post-conflict peacebuilding;
 - \$5,560,000,000 for electric sector;
 - \$1,890,000,000 for oil infrastructure;
 - \$4,332,000,000 for water resources and sanitation;
 - \$500,000,000 for transportation and telecommunications;
 - \$370,000,000 for roads, bridges, and construction;
 - \$793,000,000 for health care;
 - \$153,000,000 for private sector development; and
 - \$280,000,000 for education, refugees, human rights, and governance.
- \$100,000,000 of this funding shall be transferred to the Economic Support Fund (ESF) account for assistance to **Jordan**.
 - \$100,000,000 of this funding shall be transferred to the International Disaster and Famine Assistance account for assistance to **Liberia**.
 - \$10,000,000 of this funding shall be transferred to the International Disaster and Famine Assistance account for assistance to **Sudan**.
 - In a memorandum to the Secretary of State on 5 December 2003, citing his constitutional power as the President and in accordance with Section 632, FAA, to

transfer FAA-authorized funding to any agency, all of the funds appropriated under this heading are transferred to the Secretary of Defense

Economic Support Fund

- \$872,000,000 to remain available until 31 December 2004
 - Not less than \$672,000,000 only for accelerated assistance for **Afghanistan**.
 - \$60,000,000 should be for assistance for Afghan women and girls.
 - \$5,000,000 shall be for the Afghan Independent Human Rights Commission
 - Not less than \$8,000,000 only for the provision of adequate dedicated air transport and support for civilian personnel at provincial reconstruction team sites.
 - Subject to a determination by the President that the government of **Pakistan** is cooperating with the U.S. in the GWOT, an amount not to exceed \$200,000,000 may be used for costs of modifying direct loans and guarantees for Pakistan. This assistance shall not be considered “assistance” for the purposes of provisions of law limiting assistance to a country.
 - This determination was provided on 26 February 2004 by Presidential Determination 2004-25.

International Disaster and Famine Assistance

- \$110,000,000 to remain available until 30 September 2005 to respond to or prevent unforeseen complex foreign crises in **Liberia and Sudan**. Not less than \$100,000,000 of this funding shall be for assistance to Liberia.

International Narcotics Control and Law Enforcement

- \$170,000,000 to remain until 31 December 2004 for accelerated assistance for **Afghanistan**.

Nonproliferation, Anti-Terrorism, Demining, and Related Programs

- \$35,000,000 for accelerated assistance to **Afghanistan**.

Foreign Military Financing Program

- \$287,000,000 for accelerated assistance to **Afghanistan**.

Peacekeeping Operations

- \$50,000,000 to support the GWOT.

General Provisions

Section 2201 directs that none of the funds appropriated by this Act or any unexpended funds provided by P.L. 108-11 may be used to repay, in whole or in part, principal or interest of any loan or guarantee agreement entered into by the government of **Iraq** with any private or public sector entity including the government of any country or with any international financial institution prior to 1 May 2003.

Section 2204 extends the authority of Section 1503, P.L. 108-11, to expire 30 September 2005 (in place of 2004). This P.L. 108-11 section authorized the President to suspend the application of any provision of the *Iraq Sanctions Act of 1990*, P.L. 101-513, 5 November 1990, which applies to the Commerce Control List (CCL) within the *Export Administration Regulations (EAR)*.

Section 2205 extends the authority of Section 1504, P.L. 108-11, to expire 30 September 2005 (in place of 2004). This P.L. 108-11 section authorized the President to export any non-lethal military equipment on the U.S. Munitions List (USML) within the *International Traffic in Arms Regulation (ITAR)* to **Iraq** when determined to be in the U.S. national interest. Additionally, the export of lethal military equipment designated by the Secretary of State for use by a reconstituted (or interim) Iraqi military or police force, and of small arms designated also by the Secretary for use for private security purposes may be authorized.

Section 2206 amends Section 202(b) of the *Afghanistan Freedom Support Act of 2002*, P.L. 107-327, 4 December 2002, by authorizing the Section 506, FAA, special drawdown of defense articles, services, and training not to exceed an aggregate value of \$450,000,000 (to place of \$300,000,000). This is for the government of **Afghanistan and eligible countries** and international organizations participating in military, peacekeeping, or policing operations in Afghanistan and specifically for use in these operations.

Section 2213 amends the *An Act to Authorize the President to Exercise Waivers for Foreign Assistance Restrictions with Respect to Pakistan through September 30, 2003, and for Other Purposes*, P.L. 107-57, 27 October 2001.

- Section 1(b), P.L. 107-57, is amended so **Pakistan** can be waived during FY2004 from not receiving assistance because of a **military coup**. Section 508, P.L. 108-199, in general, prohibits assistance during FY2004 to a country where a military coup has taken place.

- The Presidential Determination 2004-26 of 24 March 2004 provides for the Pakistan military coup waiver during FY2004.

- Section 3(2), P.L. 107-57, is amended so that the **Brooke-Alexander Amendment** does not apply to Pakistan during FY2004. The Brooke-Alexander Amendment [Section 512, P.L. 108-199, for FY2004] prohibits any further assistance to a country that is more than twelve months in arrearage of loans repayment to the U.S.

- Section 6, P.L. 107-57, is amended to change the expiration of the law authority to 1 October 2004 (in place of 2003) thus allowing the waiver for Pakistan of Section 73(e), AECA, and Section 11B(b)(5), EAA, regarding the **Missile Technology Control Regime (MTCR)** sanctions; and Section 620(q), FAA, regarding six month loan repayment arrearage sanctions.

- It also extends the Section 506(a)(2)(i)(III), FAA, five day exception (in place of normal fifteen) for advance notification to Congress regarding any **special drawdown** for the purpose of anti-terrorism assistance; and the Section 516(f)(1), FAA, fifteen day exception (in place of normal thirty) for advance notification to Congress regarding the **grant EDA transfer** of significant military equipment (SME) or defense articles originally acquired at \$7,000,000 or more when determined important to U.S. efforts to respond to, deter, or prevent acts of international terrorism.

Section 2214 amends Section 108(a) of the *Afghanistan Freedom Support Act of 2002*, P.L. 107-327, 4 December 2002, authorizing economic and democratic development assistance for **Afghanistan** of \$1,825,000,000 for FY2004, \$425,000,000 for each fiscal year 2005 and 2006.

Section 2217(c) provides that activities carried out by the U.S. with respect to training for military and police forces in **Afghanistan and Iraq** shall include training, designed in consultation with women's organizations in Afghanistan and Iraq, respectively, on the protection, rights, and particular needs of women.

Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2004, Division B, P.L. 108-199, 23 January 2004

- Enacted as Division B of the *Consolidated Appropriations Act, 2004*, P.L. 108-199, 23 January 2004 (HR2673). The original bills were reported out of the House and Senate Appropriations Committees as HR2799 (H.Rpt. 108-221) on 21 July 2003 and S1585 (S.Rpt. 108-144) on 5 September 2003 respectively. The House approved HR2799 on 23 July 2003 and the Senate did not take action on S1585. However, on 11 November 2003, the Senate voted to proceed with HR2799. As was the case with the foreign operations appropriations (HR2800), the conference placed HR2799 into the consolidated appropriations using the proposed agriculture bill (HR2673) as the mechanism for final passage. The conference reported out on 25 November 2003 with H.Rpt. 108-401 which was ultimately passed by both houses and enacted on 23 January 2004 as P.L. 108-199.

- The following funding figures are subject to the directed 0.59 percent rescission.

Title IV – Department of State and Related Agency, Department of State, Administration of Foreign Affairs

Diplomatic and Consular Programs

- \$3,420,000,000 for necessary expenses of the Department and the Foreign Service not otherwise provided for, to include, inter alia:

- Not exceeding 69 permanent positions, \$7,311,000 shall be expended for the Bureau of Legislative Affairs.

- Up to \$4,000,000 may be transferred to the Emergencies in the Diplomatic and Consular Service account to be available only for emergency evacuations and terrorism rewards.

- \$301,563,000 shall be available only for public diplomacy international information programs.

- \$3,000,000 shall be available only for the establishment and operations of an Office on Right-Sizing the U.S. Government Overseas Presence.

- These funds may be available for a U.S. government interagency task force to examine, coordinate, and oversee U.S. participation in the U.N. headquarters renovation project.

- No funds may be obligated or expended for processing licenses for the export of satellites of U.S.-origin, to include commercial satellites and satellite components, to the PRC unless, at least fifteen days in advance, the congressional committees on appropriations are notified of such proposed action.

- \$646,701,000 to remain available until expended for costs of worldwide security upgrades.

- \$5,000,000 is available for the State Department to establish the Center for Antiterrorism and Security Training.

- \$40,000,000 to remain available until expended for the costs of worldwide OpenNet and classified connectivity infrastructure.

Capital Investment Fund

- \$80,000,000 to remain available until expended for necessary expenses of the Capital Investment Fund.

Protection of Foreign Missions and Officials

- \$10,000,000 to remain available until 30 September 2005 for expense not otherwise provided to enable the Secretary of State to provide for extraordinary protective services.

Embassy Security, Construction, and Maintenance

- \$530,000,000 to remain available until expended for necessary expenses for preserving, maintaining, repairing, and planning for buildings that are owned or directly leased by the Department of State, renovating in addition to funds otherwise available the Harry S Truman Building, and carrying out the Diplomatic Security Construction Program.
- \$861,400,000 to remain available until expended for the costs of worldwide security upgrades, acquisition, and construction.

Emergencies in the Diplomatic and Consular Service

- \$1,000,000 to remain available until expended to enable the Secretary of State to meet unforeseen emergencies arising in the Diplomatic and Consular Service.

Payment to the American Institute in Taiwan

- \$18,782,000 for expenses to carry out the *Taiwan Relations Act*, P.L. 96-8, 10 April 1979.

International Organizations

Contributions to International Organizations

- \$1,010,463,000 for expenses necessary to meet annual obligations of membership in international multilateral organizations pursuant to treaties ratified pursuant to the advice and consent of the Senate.
- The Secretary of State shall notify the congressional committees on appropriations at least fifteen days in advance of any U.N. action to increase funding for any U.N. program without identifying an offsetting decrease elsewhere in the U.N. budget and cause the U.N. to exceed the adopted budget for the biennium 2002-2003 of \$2,891,000,000.
- Funds may be obligated and expended to pay the full U.S. assessment to the civil budget of NATO.

Contributions for International Peacekeeping Activities

- \$550,200,000 to pay assessed and other expenses of international peacekeeping activities directed to the maintenance or restoration of international peace and security of which ten percent shall remain available until 30 September 2005.

- \$95,358,000 of this funding shall be derived from prior year unobligated balances from funds previously appropriated under this heading.

- None of this funding shall be made available for obligation or expending for any new or expanded U.N. peacekeeping mission unless, at fifteen days in advance of voting in the U.N. Security Council, the Congressional appropriations committee and other appropriate committees are:

- Notified of the estimated cost and length of the mission, the vital national interest that will be served, and the planned exit strategy, and

- A preprogramming of funds pursuant to Section 605 of this Act is submitted, and procedures therein followed, setting forth the source of funds that will be used to pay for the cost of the new or expended mission.

- None of this funding is available to pay the U.S. share of the cost of court monitoring that is part of any U.N. peacekeeping mission.

Other

International Center for Middle Eastern-Western Dialogue Trust Fund

- \$7,000,000 to remain available until expended for a grant to the Middle Eastern-Western Dialogue Trust Fund for operation of the International Center for Middle Eastern-Western Dialogue in Istanbul, Turkey. \$250,000 of this funding shall be made available for the establishment and operation of a steering committee which the Secretary of State shall appoint to establish the International Center for Middle Eastern-Western Dialogue.

General Provisions – Department of State and Related Agency

Section 404 directs the Secretary of State, upon request of the citizen, to record Israel as the place of birth for the purposes of registration of birth, certification of nationality, or issuance of a passport of a U.S. citizen born in the city of Jerusalem.

Protocols to North Atlantic Treaty of 1949 on Accession of Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia, Treaty Number 108-4, 8 May 2003

- On 10 April 2003, the President submitted to the Senate for ratification, in accordance with Article II, Section 2, Clause 2, of the U.S. Constitution, the proposed change to the membership of NATO to also include **Bulgaria, Estonia, Latvia, Lithuania, Slovakia, and Slovenia**. This would increase the membership to twenty-six.

- The FAA/AECA security assistance impact would include many changes for these seven countries to include, among others: reducing the required advance notification to Congress for FMS, DCS, third country transfer, and leasing from thirty days to fifteen days; upon request, increased waiver authorities for certain FMS pricing; waiving of certain training tuition costs; certain priorities and authorities in licensing of DCS; and increased authorities for participation in international armaments cooperation programs.

- Earlier, on 12 March 1999, **Hungary, Poland, and the Czech Republic** became members of NATO.

- On 30 April 2003, the Senate Foreign Relations Committee reported out the proposed change recommending ratification.

- On 8 May 2003, the Senate ratified the change to the NATO Treaty as requested by the President.

- The ratification included the Senate finding that it “will keep its door open” and “will keep under review” for future rounds of NATO enlargement to possibly include the countries of **Albania, Croatia, and the Former Yugoslav Republic of Macedonia**.

- Another Senate finding was that the seven new members have been acting as de facto NATO allies through their contributions and participation in peacekeeping operations in the Balkans, Operation Enduring Freedom, and the International Security Assistance Force (ISAF).

- The ratification included a few conditions that shall be binding upon the President.

- Certification that the inclusion of the seven new members will not have the effect of increasing the overall percentage share of the U.S. in the common budgets of NATO.

- Certification that the inclusion of the seven new members does not detract from the ability of the U.S. to meet or to fund its military requirements outside of the North Atlantic area.

- These two certifications were provided by the President on 26 February 2004.

- For a three year period following the date of entry into force, an annual report shall be submitted not later than 1 April to the appropriate congressional committees, both in classified and unclassified form, to include the following information:

- Amount contributed to the common budgets of NATO by each member during the preceding calendar year,

- The proportional share assigned to, and paid by, each member under NATO's cost-sharing arrangements, and

- The national defense budget of each member, the steps taken by each member to meet NATO force goals, and the adequacy of the national defense budget of each member in meeting common defense and security obligations.

- Prior to any decision by NATO to invite any other country to begin accession talks with NATO, a detailed report on how the country (s) will further the principles of NATO, eligibility for membership, affect on U.S. national security interests, cost analysis of integration and costs to borne by the current members, and an analysis of implications for the U.S. defense budget.

- Not later 1 January 2004, a report to the congressional intelligence committees on the progress by the new members in satisfying the security sector and security vetting requirements for membership.

- This report was provided by the President on 26 February 2004.

- The Director of Central Intelligence is also include an initial report on procedures and requirements established by the new members for the protection of intelligence sources and methods and how they compare to the other NATO membership countries.

- Certification that the new members are fully cooperating with the U.S. to obtain the fullest possible accounting of captured or missing U.S. personnel from past military conflicts or Cold War incidents to include:

- Facilitating full access to relevant archival material, and

- Identifying individuals who may possess knowledge relative to these U.S. personnel and encouraging such individuals to speak with U.S. government officials./

- These two certifications were likewise provided by the President on 26 February 2004.

- On 29 March 2004, the President welcomed the Prime Ministers of all seven countries to the White House along with the NATO Secretary General and the Prime Ministers of Albania, Croatia, and Macedonia.

- Also on 29 March 2004, the Secretary of State presided over the NATO accession ceremony and luncheon held at the U.S. Department of the Treasury. He accepted the instruments of accession from the seven Prime Ministers and their countries immediately became the newest members of NATO. The U.S. is the depository nation for the North Atlantic Treaty.

Syria Accountability and Lebanese Sovereignty Restoration Act of 2003, P.L. 108-175, 12 December 2003

- Enacted to halt Syrian support for terrorism, end its occupation of Lebanon, and stop its development of weapons of mass destruction, and by so doing hold Syria accountable for the serious international problems it has caused in the Middle East. Introduced with 297 cosponsors as HR1828 and referred on 12 April 2003 to the House International Relations Committee. On 15 October 2003, reported out with H.Rpt 108-314. The House promptly approved the bill on the same date and forwarded to the Senate for approval. Without referral to the Senate Foreign Relations Committee (SFRC), the Senate considered the House bill and approved it on 11 November 2003 with one amendment, S.Amdt 2148. The Senate originally considered a similar bill, S982, with 81 cosponsors. It was referred to the SFRC on 1 May 2003 with no resulting action. The House approved the Senate amendment to the bill on 20 November 2003 and it was enacted on 12 December 2003.

- The law contains several Congressional findings, to include, inter alia, the following:

- Syria is prohibited by law from receiving U.S. assistance because it has repeatedly provided support for acts of international terrorism and determined by the Secretary of State to provide safe haven and support to several terrorist groups.

- Hizballah, Hamas, Palestinian Islamic Jihad, the Popular Front for the Liberation of Palestine, and the Popular Front for the Liberation of Palestine – General Command; all maintain offices, training camps, and other facilities on Syrian territory and operate in areas of Lebanon occupied by the Syrian armed forces, and receive supplies from Iran through Syria.

- Approximately 20,000 Syrian troops and security personnel occupy Lebanon.

- Syria will not allow Lebanon to deploy its own troop to its own southern border.

- Syria continues to develop and deploy short and medium-range ballistic missiles.

- Syria is pursuing the development and production of biological and chemical weapons and has a nuclear research and development program. Though not a party to the Chemical Weapons Convention or the Biological Weapons Convention, Syria is a party to the Treaty on the Non-Proliferation of Nuclear Weapons.

- During his testimony on 25 September 2003 to the House International Relations Committee (HIRC), Ambassador L. Paul Bremmer, III, stated that out of the 278 third-country nationals captured by coalition forces in Iraq, the single largest group were Syrians.

- Until the President makes the determination and certification later outlined, the President shall prohibit the export, to include commercial licensing, of any item on the U.S. Munitions List (USML) or the Commerce Control List (CCL) of dual items to Syria.

- The President shall also impose two or more of the following sanctions:

- Prohibit the export of U.S. products other than food and medicine,

- Prohibit U.S. businesses from investing or operating in Syria,

- Restrict Syrian diplomats in Washington DC, and the United Nations in New York City to a travel radius of 25 miles,

- Prohibit aircraft if any air carrier owned or controlled by Syria to take off from, land in, or over fly the U.S.,

- Reduce U.S. diplomatic contacts with Syria, or

- Block transactions in any property in which Syria has any interest, by person, or with respect to any property, subject to the jurisdiction of the U.S.

- The President may waive these prohibitions if he determines and reports to the appropriate congressional committees with justification that it is in the U.S. national security interest to do so.

- The required determination and certification in regard to restoring normal diplomatic and economic relationships with Syria include the following:

- Syria has ceased providing support for international terrorist groups and does not allow the previously listed terrorist groups to maintain facilities in territory under Syrian control,

- Syria has ended its occupation of Lebanon,
- Syria has ceased the development and deployment of medium and long-range surface-to-surface ballistic missiles, is not pursuing or engaged in the research, development, acquisition, production, transfer, or deployment of biological, chemical, or nuclear weapons, has provided credible assurances that such behavior will not be undertaken in the future, and has agreed to allow the U.N. and other international observers to verify such actions and assurances, and
- Syria has ceased all support for, and facilitation of, all terrorist activities inside Iraq, including preventing the use of territory under its control by any means whatsoever to support those engaged in terrorist activities in Iraq.
- The President may provide Chapter 1, Part I of the FAA, developmental assistance to Syria if:
 - It is determined that Syria meets the requirements described in the above certification,
 - It is determined that substantial progress has been both in negotiations aimed at achieving a peace agreement between Israel and Syria and in negotiations aimed at achieving a peace agreement between Israel and Lebanon, and
 - It is determined that Syria is strictly respecting the sovereignty, territorial integrity, unity, and political independence of Lebanon under the sole and exclusive authority of the government of Lebanon through the Lebanese army throughout Lebanon.
- The Secretary of State shall submit a status report regarding Syria's progress in meeting the requirements of the conditions desired within the above described presidential determination and certification to the appropriate congressional committees not later than six months after enactment of this Act.
 - This report is to also include the connections, if any, between individual terrorists and terrorist groups which maintain offices, training camps, or other facilities on Syrian territory or operate in areas of Lebanon occupied by the Syrian armed forces and terrorist attacks on the U.S. or its citizens, installations, or allies; and
 - How the U.S. is increasing its efforts against Hizballah and other terrorist organizations support by Syria.
 - This six month report is to be followed up with an updated report every twelve months thereafter until the above desired determination and certification are met by Syria.

- When the President announced his enactment of HR1828 on 12 December 2003, he did so with the following observations:

- A law cannot burden or infringe the President's exercise of a constitutional power to conduct foreign affairs, and as Commander-in-Chief, in particular with respect to the conduct of foreign diplomats in the U.S., the conduct of U.S. diplomats abroad, and the exporting of items and provision of services necessary to the performance of official functions by U.S. government personnel abroad.

- Additionally, the requirement for the Secretary of State, an officer of the Executive Branch, to furnish information to Congress shall be construed in a manner consistent with the President's constitutional authority to withhold information the disclosure of which could impair foreign relations, national security, the deliberative processes of the Executive, or the performance of the Executive's constitutional duties.

Department of Defense Appropriations Act, 2004, P.L. 108-87, 30 September 2003

- Reported out of the House Appropriations Committee as HR2658 on 2 July 2003 with H.Rpt. 108-187. Passed in the House on 8 July 2003. S1382 reported out the Senate Appropriations Committee on 10 July 2003 with S.Rpt. 108-87. Passed the Senate on 17 July 2003. Conference was held and reported out on 24 September 2003 with H.Rpt. 108-283. Passed the House and Senate on 24 and 25 September 2003, respectively, and forwarded to the White House for enactment.

- This bill and the legislative branch appropriations bill, HR2559, were the only two FY2004 appropriations bills that were enacted into law before the start of calendar year 2003.

- This funding is not subject to the directed 0.59 percent rescission.

Title II, Operation and Maintenance

Defense - Wide

- \$30,000,000 for the CINC Initiative Fund.

Overseas Humanitarian, Disaster, and Civic Aid

- \$59,000,000 to remain available until 30 September 2005 for Overseas Humanitarian, Disaster, and Civic Aid programs.

Former Soviet Union Threat Reduction

- \$450,000,000 to remain available until 30 September 2006 for the **republics of the former Soviet Union**, including assistance provided by contract or by grants, for facilitating the elimination and the safe and secure transportation and storage of nuclear, chemical and other weapons. This is also for establishing programs to prevent the proliferation of weapons, weapons components, and weapons-related technology. This is also for programs relating to the training and support of defense and military personnel for demilitarization and protection of weapons, weapons components and weapons technology and expertise, and for defense and military contacts. Of this amount, \$10,000,000 shall be available only to support the dismantling and disposal of nuclear submarines and submarine reactor components in the Russian Far East.

Title VIII, General Provisions

- Section 8002, as in prior years, states that during FY2004, provisions of prohibiting the payment of compensation to, or employment of, any person not a citizen of the U.S. shall not apply to personnel of the DoD.

- Salary increases granted to direct or indirect hire foreign national DoD employees funded by this Act shall not be at a rate in excess of the percentage increase authorized by law for DoD civilians whose pay is computed under the provisions of 5 U.S.C. 5332, or at a rate in excess of the percentage increase provided by the appropriate host nation to its own employees, whichever is higher. This does not apply to DoD foreign national employees of the DoD in the **Republic of Turkey**. This also does not apply to DoD foreign service national employees serving at U.S. diplomatic missions whose pay is set by the Department of State under the *Foreign Service Act of 1980*.

- Section 8009 authorizes the use of operation and maintenance funds to be obligated for humanitarian and civic assistance costs pursuant to 10 U.S.C. 401 and these obligations are to be reported to Congress as of 30 September of each year.

- These funds shall be available for providing humanitarian and similar assistance by using Civic Action Teams in the **Trust Territories of the Pacific Islands (TTPI) and freely associated states of Micronesia** pursuant to the Compact of Free Association as authorized by P.L. 99-239.

- Upon determination by the Secretary of the Army that such action is beneficial for graduate medical education programs conducted by the Army medical facilities located in Hawaii, the Secretary may authorize the provision of medical services at such facilities and transportation to the facilities on a nonreimbursable basis for civilian patients from **American Samoa, Commonwealth of the Northern Mariana Islands, Marshall Islands, Federated States of Micronesia, Palau, and Guam**.

- Section 8027 authorizes DoD during FY2004 to incur obligations not to exceed \$350,000,000 for purposes specified in 10 U.S.C. 2350j(c), in anticipation of receipt of

contributions only from **Kuwait** to credited to the appropriations or fund which incurred such obligations.

- Section 8051 states that none of the funds appropriated or otherwise made available by this Act, may be obligated or expended for assistance to the Democratic People's Republic of **North Korea** unless specifically appropriated for that purpose.

- Section 8065 states that none of the funds available for DoD during FY2004 may be obligated or expended to **transfer defense articles or services** (other than intelligence services) to another nation or international organization for specified below activities unless the congressional defense committees, the Senate Foreign Relations Committee, and the House International Relations Committee are notified fifteen (15) days in advance of the transfer.

- The specified activities include any international peacekeeping, peace-enforcement or humanitarian assistance operation.

- This notification shall include a description of the transfer, value of the transfer, a statement whether the inventory requirements of all elements of the Armed Forces for the type of transfer have been met, and whether the items to be transferred will have to be replaced. If replacement is required, how does the President propose to provide the funds for such a replacement?

- When this legislation was enacted, the President stated on 1 October 2003 that the Executive Branch shall construe this Section in manner consistent with the President's constitutional authority as the Commander-in-Chief of the Armed Forces. This was expressed in concern that the actions may require implementation before the fifteen day advanced notification period expired.

- Section 8066 authorizes the Secretary of Defense to issue loan guarantees of up to \$15,000,000,000 in support of U.S. defense exports not otherwise provided for. The exposure fees charged and collected for guarantee shall be paid by the country involved and shall not be financed as part of a loan guaranteed by the U.S. Section 1321, *Defense Authorization Act, Fiscal Year 1996*, P.L. 104-106, 10 February 1996, first authorized this program as the **Defense Export Loan Guarantee (DELG) Program**.

- Section 8075, as in prior years, states that none of the funds made available in this Act may be used to approve or license the **sales of the F-22** advanced tactical fighter to any foreign government.

- Section 8076 allows the Secretary of Defense, on a case-by-case basis, to waive with respect to a foreign country each limitation on the procurement of **defense items from foreign sources** provided in law if the Secretary determines that the application of the limitation with respect to that country would invalidate **cooperative programs** entered into between the DoD and the foreign country, or would invalidate **reciprocal trade agreements** for the procurement of defense items entered into under 10 U.S.C.

2531, and the country does not discriminate against the same or similar defense items produced in the U.S. for that country.

- This applies to contracts and subcontracts entered into on or after the date of enactment of this Act, and

- For options for the procurement of items that are exercised after such date under contracts that are entered into before such date if the option prices are adjusted for any reason other than the application of a waiver granted under this Section.

- Section 8077 states that none of the funds made available by this Act may be used to support any training program involving a unit of the **security forces of a foreign country** if the Secretary of Defense has received credible information from the Department of State that the unit has committed a gross violation of human rights, unless all necessary corrective steps have been taken.

- The Secretary of Defense, in consultation with Secretary of State, shall ensure that prior to a decision to conduct any training program involving a security force unit, full consideration is given to all credible information available to the Department of State relating to human rights violations by foreign security forces.

- The Secretary of Defense, after consultation with the Secretary of State, may waive this prohibition if he determines that such a waiver is required by extraordinary circumstances. Not more than fifteen days after exercising such a waiver, the Secretary shall submit a report to the congressional defense committees describing the extraordinary circumstances, the purpose and duration of the training program, the U.S. and foreign security forces involved in the program, and the information relating to the human rights violations that necessitates the waiver.

- Section 8095 directs that \$144,803,000 of the funds appropriated under FY2004 Research, Development, Test, and Evaluation shall be made available for the **Arrow missile** defense program. \$80,000,000 shall be available for producing Arrow missile components in the U.S. and Arrow missiles and components in **Israel** to meet Israel's defense requirements, consistent with each country's laws, regulations, and procedures.

- Section 8120 authorizes the use of \$20,000,000 appropriated under the heading Operations and Maintenance, Defense-Wide for the **Regional Defense Counter-Terrorism Fellowship Program**, to fund the education and training of foreign military officers, ministry of defense civilians, and other foreign security officials, to include U.S. military officers and civilian officials whose participation directly contributes to the education and training of these foreign students.

- Section 8137 directs that none of the funds provided by this Act may be used to pay any fee charged by the Department of State for the purpose of constructing new U.S. diplomatic facilities.

***National Defense Authorization Act for Fiscal Year 2004, P.L. 108-136,
24 November 2003.***

- Reported out of the House Armed Services Committee as HR1588 on 16 May 2003 with H.Rpt. 108-106 to be passed the House on 22 May 2003. A separate bill was reported out of the Senate Armed Services Committee as S1050 on 13 May 2003 with S.Rpt. 108-46. On 22 May 2003, the Senate approved S1050 and placed it as an amendment into HR1588 on 4 June 2003. A conference was held with HR1588 being reported out on 7 November 2003 with H.Rpt. 108-354. The House and the Senate approved the final HR1588 on 7 and 12 November 2003, respectively. The bill was presented to the President for enactment on 24 November 2003.

Division A – Department of Defense Authorizations

Title II – Research, Development, Test, and Evaluation

Subtitle D – Other Matters

Section 231. Global Research Watch Program in the Office of the Director of Defense Research and Engineering.

- Amends Chapter 139 of 10 U.S.C. by inserting a new Section 2365 establishing the **Global Research Watch Program** directing the Director of Defense Research and Engineering (DDRE) to carry out this new program. The program goals include:

- To monitor and analyze the basic and applied research activities and capabilities of foreign nations in the areas of military interest, including allies and competitors,

- To provide standards for comparison and comparative analysis of research capabilities of foreign nation in relation to the research capabilities of the U.S.,

- To assist Congress and DoD officials in making investment decisions for research in technical areas where the U.S. may not be the global leader,

- To identify areas where significant opportunities for cooperative research may exist,

- To coordinate and promote the international cooperative research and analysis activities of each of the armed forces and Defense Agencies, and

- To establish and maintain an electronic database on international research capabilities, comparative assessments of capabilities, cooperative research opportunities, and ongoing cooperative programs.

- The program shall be focused on research and technologies at a technical maturity level equivalent to DoD basic and applied research programs.
- The Military Department Secretaries and directors of Defense Agencies shall provide DDRE such assistance as the Director may require for purposes of this program.
- The database shall be maintained at the unclassified level but, as determined necessary by DDRE, a classified level may be established.
- The requirement to carry out this program under this new section shall terminate on 30 September 2006.

Title III – Operation and Maintenance

- Section 301 (18) authorizes the FY2004 appropriation of \$59,000,000 for **Overseas Humanitarian, Disaster, and Civic Aid programs**. P.L. 108-87 appropriated this same figure.
- Section 301 (19) authorizes the FY2004 appropriation of \$450,000,000 for **Cooperative Threat Reduction (CTR) programs**. P.L. 108-47 appropriated this same figure.

Subtitle D – Other Matters

Section 341. Cataloging and Standardization for Defense Supply Management.

- Amends 10 U.S.C. 2451 with a subsection d that the Secretary shall coordinate with the Administrator of General Services to enable the use of commercial identifiers for commercial items within the **Federal cataloging system**.

Title V – Military Personnel Policy

Subtitle A – Officer Personnel Matters

Section 503. Repeal of Required Grade of Defense Attache in France.

- Repeals 10 U.S.C. 714 so that the officer selected to be the **defense attaché in Paris** no longer has, or a selectee, to be a brigadier general or rear admiral (lower half).
- This was a requirement from Section 597(a), P.L. 105-85, 18 November 1997.

Section 509. Secretary of Defense Approval Required for Practice of Wearing Uniform Insignia of Higher Grade Known as “Frocking.”

- Amends 10 U.S.C. 777(b) with a new subsection (3) requiring the Secretary of Defense, or a civilian officer within the OSD whose appointment was made with the

advice and consent of the Senate and to whom the Secretary delegates such approval, to approve the **frocking of a selectee to O-7 or above**. The Secretary must also submit a written notification to Congress of the intent to authorize the frocking thirty days prior to the event. This does not apply to any authorized frocking that took place before the enactment of this Act.

Title VI – Compensation and Other Personnel Benefits

Subtitle A – Pay and Allowances

Section 606. Temporary Increase in Authorized Amount of Family Separation Allowance.

- Amends 37 U.S.C. 427 to authorize the **monthly FSA** of \$250 during the period 1 October 2003 to 31 December 2004.

Subtitle B – Bonuses and Special Incentive Pays

Section 619. Temporary Increase in Authorized Amount of Hostile Fire and Imminent Danger Special Pay.

- Amends 37 U.S.C. 310 to authorize the subject pay to \$225 during the period 1 October 2003 to 31 December 2004.

Section 620. Retroactive Payment of Hostile Fire or Imminent Danger Pay for Service in Eastern Mediterranean Sea in Operation Iraqi Freedom.

- Authorizes the Secretary of Defense to provide the subject pay to members during the period 19 March 2003 to 11 April 2003 in the **Mediterranean Sea** east of 30 degrees East Longitude (sea area only) in connection with Operation Iraqi Freedom.

Title IX – Department of Defense Organization and Management

Subtitle A – Duties and functions of Department of Defense Officers and Organizations.

Section 902. Combatant Commander Initiative Fund.

- Amends 10 U.S.C. 166(a) changing the CINC Initiative Fund to read “**Combatant Commander Initiative Fund.**”

Subtitle C – Department of Defense Intelligence Components

Section 921, Redesignation of National Imagery and Mapping Agency as National Geospatial-Intelligence Agency.

- Amends 10 U.S.C. 467 changing the National Imagery and Mapping Agency (NIMA) to read “**National Geospatial-Intelligence Agency (NGA).**”

Title X – General Provisions

Section 1006. Reimbursement Rate for Certain Airlift Services Provided to the Department of State.

- Amends 10 U.S.C. 2642(a) authorizing the Secretary of Defense to use the DoD reimbursement rate for military airlift services provided by a DoD component for the **transportation of armored motor vehicles** to a country associated with the overseas travel of the Secretary of State in that country.

Section 1007. Limitation on Payment of Facilities Charges Assessed by Department of State.

- Effective 1 October 2003, funds appropriated for DoD may be transferred to the Department of State as remittance for a fee charged to DoD by the Department of State for any year for maintenance, upgrade, or construction of U.S. diplomatic facilities only to the extent that the amount charged, when added to other amounts previously so charged for that fiscal year, exceeds the total amount of the unreimbursed costs incurred by DoD during that year in providing goods and services to the Department of State.

Section 1021. Expansion and Extension of Authority to Provide Additional Support for Counter-Drug Activities.

- Amends Section 1033 of the *National Defense Authorization for Fiscal Year 1998*, P.L. 105-85, 18 November 1997, authorizing the governments of **Afghanistan, Bolivia, Ecuador, Pakistan, Tajikistan, Turkmenistan, and Uzbekistan** to receive the subject support.

- The amendment also changes the authorized amount of support to read “\$20,000,000 during any of the fiscal years 1999 through 2003 or \$40,000,000 during any of the fiscal years 2004 through 2006.”

- The amendment also strikes the countries of Peru and Colombia and inserts “other countries.”

Section 1023. Use of Funds for Unified Counterdrug and Counterterrorism Campaign in Colombia.

- Authorizes the use of FY2004 DoD funds to provide assistance to the government of **Colombia** to support a unified campaign by Colombia against narcotics trafficking and against activities by organizations designated as terrorist organizations such as the Revolutionary Armed Forces of Colombia (FARC), the National Liberation Army (ELN), and the United Self-Defense Forces of Colombia (AUC).

- No U.S. armed forces personnel, U.S. civilian employees, or U.S. civilian contractor personnel employed by the U.S. may participate in any **combat operation** in connection with assistance provided by this Section except for the purpose of acting in self defense or of rescuing any U.S. citizen, including any U.S. armed forces personnel, U.S. civilian employee, or civilian contractor employed by the U.S.

Title XII – Matters Relating to Other Nations

Subtitle B – Matters Relating to Export Protections

Section 1211. Review of Export Protections for Military Superiority Resources.

- The Secretary of Defense shall carry out a review to:
 - Identify goods or technology, as defined by Section 16 of the *Export Administration Act of 1979*, that, if obtained by a potential adversary, could significantly undermine the U.S. military superiority or qualitative military advantage over potential adversaries or otherwise contribute to the acquisition of weapons of mass destruction and their delivery systems; and
 - Determine whether any of the items or technologies identified are not currently controlled for export purposes on either the **Commerce Control List (CCL)** or the **U.S. Munitions List (USML)**.
- A report of this review shall be submitted to the congressional armed services committees not later than 1 March 2004.
- An update of this report shall also be submitted annually for the next two years.

Section 1212. Report on Department of Defense Costs Relating to National Security Controls on Satellite Exports.

- The Inspector General of the Department of Defense shall conduct a study of the costs incurred by DoD for each fiscal year from FY1999 through FY2003 relating to national security controls on **satellite exports** pursuant to Section 1514 of the *Strom Thurmond National Defense Authorization Act for Fiscal Year 1999*, P.L. 105-261, 17 October 1998, in connection with licenses for the export of satellites and related items. Refer to The DISAM Journal, Spring 1999, page 47, for additional information on this requirement. This report is to be provided not later than 1 April 2004 to the congressional armed services committees.

Subtitle C – Administrative Requirements and Authorities

Section 1221. Authority to Use Funds for Payment of Costs of Attendance of Foreign Visitors under Regional Defense Counterterrorism Fellowship Program.

- Amends Subchapter I of Chapter 134 of Title 10 U.S.C. with a new 10 U.S.C. 2249c, authorizing the use of DoD funding not to exceed \$20,000,000 annually to pay for any costs associated with the attendance of foreign military officers, ministry of defense officials, or security officials at U.S. military educational institutions, regional centers, conferences, seminars, or other training programs conducted under the **Regional Defense Counterterrorism Fellowship Program**, including costs of transportation and travel and subsistence costs. There is to be an annual report submitted to Congress regarding this program conducted during the previous fiscal year.

Section 1222. Recognition of Superior Noncombat Achievements or Performance by Members of Friendly Foreign Forces and Other Foreign Nationals.

- Amends Chapter 53 of Title 10 U.S.C. with a new 10 U.S.C. 1051b, authorizing the Secretary of Defense to present **awards and mementos** purchased with DoD funding to for the subject recognition of foreign military or civilian nationals that significantly enhance or support the National Security Strategy of the U.S.

Section 1223. Expansion of Authority to Waive Charges for Costs of Attendance at George C. Marshall European Center for Security Studies.

- Amends Section 1306(b)(1) of the *National Defense Authorization Act for Fiscal Year 1995*, P.L. 103-337, 5 October 1994, for waiving student costs at the Center by expanding the eligibility from NATO or Partnership-for-Peace countries to countries located in Europe or the territory of the former Soviet Union.

Section 1225. Depot Maintenance and Repair Work on Certain Types of Trainer Aircraft to be Transferred to Foreign Countries as Excess Aircraft.

- The Secretary of Defense shall make all reasonable efforts to endure that T-2 Buckeye and T-37 Tweet trainer aircraft receives necessary depot maintenance and repair work in the U.S. before transfer as **excess aircraft**. This work shall be at no-cost to DoD.

Title XIII – Cooperative Threat Reduction with States of the former Soviet Union

Section 1302. Funding Allocations.

- Table Twelve displays the Cooperative Threat Reduction program funding authorizations for FY2004.

Table Twelve

**Cooperative Threat Reduction (CTR) Program Authorizations
FY2004 Funding
(in millions)**

<u>Program</u>	<u>Authority</u>
Strategic Offensive Arms Elimination in Russia	\$57,600,000
Strategic Nuclear Arms Elimination in Ukraine	3,900,000
Nuclear Weapons Transportation Security in Russia	23,200,000
Nuclear Weapons Storage Security in Russia	48,000,000
Activities Designated as Other Assessments/Admin Support	13,100,000
Defense and Military Contacts	11,100,000
Chemical Weapons Destruction in Russia	200,300,000
Biological Weapons Proliferation Prevention in the former Soviet Union	54,200,000
Weapons of Mass Destruction Proliferation in the States of The former Soviet Union	<u>39,400,000</u>
Total CTR Program Authorization	\$450,800,000

Conclusion

This year's article includes the description and analysis of six separate pieces of legislation and one treaty ratification that affected security assistance. The Administration's request for FY2004 funding was generally provided especially with another fourteen percent growth in IMET funding. However, the security assistance community receiving its appropriation and allocation until the second quarter of the affected fiscal year with an imposed across-the-board rescission are starting to become routine. This year witnessed the community receiving an emergency supplemental appropriation before receiving its annual appropriation. And for the first time since FY2000, the security assistance program did not have a specific authorization act.

Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2004, Division D, P.L. 108-199, 23 January 2004, initially appropriated \$6,611,600,000 for the FY2004 security programs; however, Division H of the same law directed an across-the-board rescission of 0.59 percent which amounted to \$39,009,000 causing the final appropriation for ESF, FMFP, IMET, and PKO to total \$6,572,591,000 for the year. *Emergency Supplemental Appropriations Act for Defense and the Reconstruction of Iraq and Afghanistan, 2004*, P.L. 108-106, 6 November, 2003, separately appropriated an additional \$287,000,000 for FMFP, \$972,000,000 for ESF, and \$50,000,000 for PKO for ongoing operations in Southwest Asia. Section 133 of the first continuing resolution (CR) for FY2004, *Continuing Appropriations for the Fiscal Year 2004, and for Other*

Purposes, P.L. 108-84, 30 September 2003, also separately authorized an non-appropriated FMFP loan of \$555,000,000 support the Czech Republic purchase of U.S. aircraft.

Other than funding, the only significant change in foreign military sales (FMS) and direct commercial sales (DCS) procedures for FY2004 was the addition of seven new NATO members bringing the total membership to 26 countries. The Senate *Protocols to North Atlantic Treaty of 1949 on Accession of Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia*, Treaty Number 108-4, 8 May 2003, followed later with a Secretary of State hosted-ceremony on 29 March 2004 in Washington, DC, allowed Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia to be eligible for the special NATO security assistance considerations authorized by the *Foreign Assistance Act* and the *Arms Export Control Act*.

Security assistance programs continue to be a principal U.S. tool for building and reinforcing alliances and coalitions throughout the world. U.S. support of coalition operations in the Middle East and Southwest Asia continues to include the significant security assistance element of security cooperation to achieve U.S. foreign policy objectives and the success of U.S. ongoing and future military operations.

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This article has been placed on the DISAM webpage by Donna Fell-Bourelle for future reference. It is located at <http://www.disam.dsca.mil/pubs/USG/USGPubs.htm> along with other security assistance related material to include the legislation articles from prior fiscal years.

About the Author

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